

In The Court of Commissioner, Saran Division, Chapra
Land Ceiling Rev. No. 183/2014
Sakichand Mahto.

Vrs.
Satyadeo Mahto & ors.

ORDER

The instant revision petition is directed against the impugned order passed by Addl. Collector, Saran Chapra in Land Ceiling (pre-emption) Appeal No. 10/13 on 09.06.2014 which led to coming of this case before this Court as second round of litigation between the parties.

The brief facts of the case are that the present petitioner Sakichand Mahto S/o Late Bhadai Mahto R/o Vill-Piprahiya Gaura Usari kala, Issuapur, Saran purchased the land in question measuring 3 katha 10 dhur appertaining to khata No. 891 plot No. 445 situated in Mouza Piprahiya through two registered sale deed from one Shanti Devi of the same village on 20.10.2005. Thereafter, the present respondent claiming himself to be the adjacent raiyat and co-sharer of the vended land filed a pre-emption case before DCLR, Marhaurah vide L.C. case No. 14/2005-06 and the said case was rejected vide order dt. 20.09.2006. Feeling aggrieved by the said order, the pre-emptor, filed an appeal before Addl. Collector, Saran vide L.C. Appeal No. 43/2006 which was also dismissed on 24.09.2007. Thereafter, the present petitioner filed a revision case before this Court vide land Ceiling revision No.492/2007. This Court after hearing the matter finally vide order dt. 04.05.2012 remanded the case back in the Court of DCLR, Marhaurah by setting aside the order of DCLR and Addl. Collector, Saran further direction for passing a fresh order in accordance with law. Thereafter, the learned DCLR initiated the old case and after hearing the parties finally concluded vide order dt. 16.01.2013 that the present respondent (pre-emptor) is co-sharer and adjoining raiyat of the disputed land and a strip of land has been left out only with a motive to defeat the pre-emption right and further a palani has been erected to modify the nature of land and accordingly he allowed the pre-emption claim of the respondent No.1. Feeling aggrieved by the said order, the present petitioner approached the Addl. Collector, Saran in appeal where he also lost the case. This led to coming up of this case before this Court in revisional jurisdiction of this Court.

Heard the learned counsel for the parties.

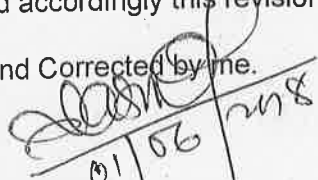
The learned counsel appearing on behalf of the petitioner while dealing with the facts of the case as well as the journey made by this case which led to coming of this case before this Court, submitted that the points which need consideration by this Court is that still the nature of the disputed land is residential and the same has been found so in the report of local C.O. He further said that residential plots are outside the purview of Bihar Land Ceiling Act. He also submitted that learned Addl. Collector has not considered this important point while passing the order as such the impugned order is fit to be set aside.

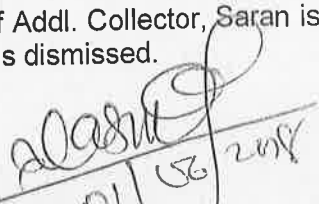
The learned counsel appearing on behalf of the respondent, strongly opposed the pleadings forwarded by the learned counsel for the petitioner and submitted that it is wrong to say that the said disputed land is of residential nature. He further said that the learned DCLR as well as learned Addl. Collector both have decided the factual aspects of the case appropriately and finally came to the conclusion that the claim of the respondent regarding he being co-sharer and adjoining raiyat of the disputed plot as such his pre-emption claim has been allowed. He lastly submitted that the case of the petitioner is not fit to be allowed.

Considering the facts and circumstances of the case, respective arguments forwarded by the learned counsel for the parties and on perusal of the impugned order, it is seen that this case has already consumed enough time but the matter has yet not been resolved. In fact in the first round of litigation the learned DCLR and Addl. Collector did not consider the case appropriately rather they confined themselves to the insignificant points raised by the purchaser petitioner about the nature of land. It is true that the pre-emptor from the very beginning pressing the point that he is the co-sharer as well adjoining raiyat but his said claim has been ignored. It is only after the case has been remanded back by this Court the original authority as well as appellate authority have taken a different view and held the claim of the pre-emptor as justified and accordingly allowed his claim. Obviously, this kind of approach by the revenue Courts lead to inordinate delay in final disposal of cases thereby causing harassment to the poor litigants. This Court now does not find any reason to go into the same issue a fresh as the contentious issue involved in the case has been already decided by the Courts below. The learned counsel for the petitioner failed to point out any infirmity in the impugned order.

For the aforementioned reasons, the impugned order of Addl. Collector, Saran is upheld and accordingly this revision petition being devoid of any merit is dismissed.

Dictated and Corrected by me.


01/06/2018
Commissioner
Saran Division, Chapra.


01/06/2018
Commissioner
Saran Division, Chapra.