

**In The Court of Commissioner, Saran Division, Chapra**  
**Land Ceiling (Pre-emption) Rev. No. 313/2008**

**Md. Abaidur & ors.**

**Vrs.**

**Sheikh Farooque & ors.**

**ORDER**

The instant appeal petition is directed against the impugned order passed by Collector, Gopalganj on 22.09.2008 in Land Ceiling 16(3) Appeal case No. 07/2005, whereby and whereunder, the restoration petition filed against the earlier order of Collector, Gopalganj passed on 14.08.2008 has been dismissed.

The brief facts of the case are that the present respondent Sheikh Farooque, S/o Late Sheikh Tasaur, R/o Pakhopali, P.S.-Uchkagaon, Dist-Gopalganj initially filed a case before SDM, Hathua claiming his pre-emption right with respect to a piece of land measuring 2 katha, appertaining to khata No. 11, survey plot No. 1044 situated in Mouza Pakhopali. The said case was allowed in favour of the present respondent vide order dt. 03.06.2005. Thereafter, the present an appeal bearing Land Ceiling 16(3) Appeal case No. 07/2005 before Collector, Gopalganj in which the said order of SDM, Hathua was under challenge. However, the said appeal case was dismissed in default by Collector, Gopalganj for non-prosecution by the appellant vide order dt. 14.08.2008. Then, the present petitioner filed a restoration petition before Collector, Gopalganj with a prayer for revival of his original appeal case but subsequently, the said restoration petition was also dismissed on the ground that no genuine ground has been furnished by the petitioner so as to consider his prayer. This led to coming up of the case before this Court under revisional jurisdiction under the relevant Act.

Heard the learned counsel for the parties.

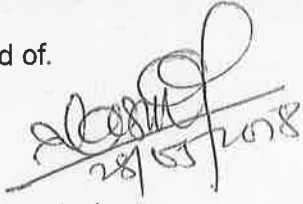
The learned counsels appearing on behalf of the parties submitted in details about their respective claim as well as argued their points relating to merit of the case.

Considering the facts and circumstances of the case material available on records, pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that the appellate Court of Collector, has not decided the case on merit rather the said case has been dismissed in default. It is also pertinent to mention here that even the original appeal case filed before Collector, has been dismissed on the ground of continuous absent of the learned counsel for the petitioner on ten successive dates when the case was called for hearing. Obviously this conduct of the petitioner is no way be called conducive and proper. It is also to be noted that the restoration petition filed by the petitioner for revival of his original appeal case has also been dismissed for the reason of his failure to furnish reasonable and convincing grounds. It is also seen that the learned Collector has recorded the reason for dis-allowing the restoration prayer. In fact, I do not find any apparent infirmity in the said order of the learned Collector, which is reasoned and proper as such no interference is required by this Court.

In the light of aforesaid position, this petition is disposed of.

Dictated and Corrected by me.

  
Commissioner  
Saran Division, Chapra.

  
Commissioner  
Saran Division, Chapra.