

**In The Court of Commissioner, Saran Division, Chapra**  
**Land Ceiling (Pre-emption) Rev. No. 16/2014**  
**Hare Ram Rai & ors.**

**Vrs.**

**Madhusudan Rai & ors.**

**ORDER**

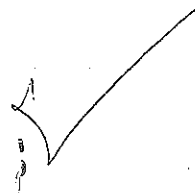
The instant revision petition is directed against the impugned order passed by Collector, Siwan in Land Ceiling 16(3) appeal case No. 44/2010-11 on 10.12.2013.

The brief facts of the case are that the disputed piece of land measuring 8 katha appertaining to khata No. 570, plot No. 1293, situated in Mouza Dumrahar Bujurg, P.S.-Darauli of Siwan district was transferred by registered sale deed dated 17.09.2009 by present o.p. No.2 and 3 in favour of present petitioner. Thereafter, the present o.p. No.1 claiming himself to be the adjoining raiyat and co-sharer of the vended land filed a pre-emption case bearing No. land Ceiling case No. 177/2009-10 before DCLR, Siwan Sadar. The learned DCLR after hearing the case finally vide order dt. 10.11.2010 allowed the pre-emption claim on the ground that the land in question is of agricultural nature and the pre-emptor qualifies to be considered as adjoining raiyat and co-sharer of the vended land. Feeling aggrieved by the said order the purchaser petitioner Hare Ram Rai & ors preferred an appeal case bearing Land Ceiling 16(3) appeal case No. 44/2010-11 before Collector, Siwan, who after hearing the matter finally vide order dt. 10.12.2013 upheld the order of learned DCLR and accordingly dismissed the appeal on being aggrieved by and dissatisfied by the said order of Collector, Siwan, the present petitioners have preferred the instant revision case before this Court.

Heard the learned counsel for the petitioner only as the learned counsel for the o.ps remained absent on the day of final hearing.

The learned counsel appearing on behalf of the petitioner at the very outset of his argument submitted that both the learned Courts below have passed an erroneous and illegal orders without considering the material facts of the case properly and the documentary evidence available on records. He further submitted that the learned Court erred in holding that the nature of land has not changed from agricultural to homestead rather the learned Courts ought to have held that the nature of land has been changed from agricultural to homestead. He also argued that the learned lower Court also erred in holding that the petitioners are landless person on whom no pre-emption claim is maintainable. He lastly said that as the impugned order is illegal, arbitrary and without reasoned, the same is fit to be set aside and accordingly this revision petition deserves to be allowed.

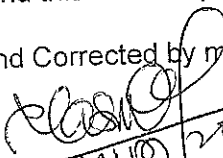
The learned counsel for the respondents, although, did not participate in the final hearing but the rejoinder filed by him and points mentioned therein has been taken into consideration while disposing of this case. In the said rejoinder, it has been clearly mentioned that the impugned order of Collector is legally valid as the same has been passed after considering all the relevant facts of the case appropriately. It has also been mentioned that the nature of land is of agricultural nature and the petitioners claim that the same has been changed into homestead land is a baseless claim since no documentary evidence is maintainable on records to prove that the said land has been changed from agricultural.

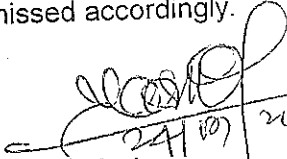


Considering the facts and circumstances of the case, material available on records, pleading forwarded by the learned counsel for the petitioner, points raised by the counsel for the respondents in the rejoinder petition and on perusal of the impugned order, it is seen that in the instant case dispute relates to 8 katha of land. The petitioner claims that the said land purchased by them has changed its nature from agricultural to homestead as such no pre-emption claim is maintainable over the said land so the orders of both the learned courts below are improper and unjust. However, it is seen that the learned Courts below after careful consideration of the facts and law finally arrived at the findings that the claim of pre-emptor of present respondent No.1 is genuine as he is the adjoining raiyat as well as co-sharer of the transferred land. Obviously, I do not find any apparent error in the impugned order of learned Collector, Siwan. Even the learned counsel for the petitioner failed to point out any specific error or illegality in the said order so as to enable this Court to make any interference. The only claim that the said land has been changed from agricultural to homestead raised by the petitioner's counsel seems to be in correct and untenable in absence of any concrete documentary evidence. Since this claim of the petitioner has already been decided by the learned Courts below, this Court does not find it proper to deal with the same again.

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

Dictated and Corrected by me.

  
Commissioner  
Saran Division, Chapra.  
24/10/2018

  
Commissioner  
Saran Division, Chapra.  
24/10/2018