

**In The Court of Commissioner, Saran Division, Chapra**  
**Land Ceiling (Pre-emption) Rev. No. 238/2014**  
**Ram Sakhi Devi & ors.**

Vrs.

**Ranglal Chauhan**

**ORDER**

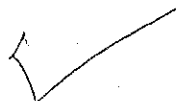
The instant revision petition is directed against the impugned order passed by Collector, Siwan in Land Ceiling 16(3) pre-emption appeal case No. 181/2012-13 on 24.07.2014.

The brief facts of the case are that the disputed piece of land measuring altogether 1 bigha 5 katha 5 ½ dhur appertaining to khata No. 3 having plot No. 10, 57, 151, and 11 situated in Mouza Bishunpura, P.S.-Guthani, Dist-Siwan was transferred by registered sale deed dt. 29.03.2011 in favour of Ram Sakhi Devi W/o Late Muni Chauhan by one Nirmal Chauhan of the same village. Thereafter the present respondent, Ranglal Chauhan, claiming himself to be the adjoining raiyat of the vended plots filed a pre-emption case before DCLR Siwan Sadar vide Land Ceiling (pre-emption) case No. 132/2011-12 on 17.05.2011. Meanwhile, the said disputed land was transferred by the purchaser in favour of her two daughter-in-law namely Aasha Devi and Shanti Devi, they were also made as party in the case before DCLR on 24.12.2011. Thereafter, the learned DCLR, after hearing the case finally vide order dt. 29.11.2012 allowed the pre-emption claim of the present respondent. Feeling aggrieved by the said order the present petitioner preferred an appeal case before Collector, Siwan and the said case was registered as Land Ceiling 16(3) pre-emption appeal case No. 181/2012-13. The learned Collector, after hearing case finally vide order dt. 24.07.2014 rejected the said appeal case. On being aggrieved by the dissatisfied with the order passed by Collector, Siwan the present petition have preferred the instant revision case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner while assailing the impugned order passed by Collector, Siwan strongly submitted that the learned Collector, ought to have, instead of upholding the order of learned DCLR, rejected the same holding that the pre-emptor had brought the case of pre-emption only with a motive to harass the present petitioner. He further submitted that the learned Collector failed to hold that once the disputed land was transferred in favour of her daughter-in-law through gift deed, the DCLR has no right to allow pre-emption claim on the gifted land. The learned counsel further submitted that as the purchaser after purchasing the land through registered sale deed on 29.03.2011, transferred the same through gift deed in favour of her daughter in law on 01.03.2011 the pre-emptor filed pre-emption claim on 17.05.2011 in that situation pre-emption claim is not maintainable on gifted land as such the learned DCLR as well learned Collector's order are illegal and arbitrary. He also contended that even in the original petition filed before DCLR, the pre-emptor did not implead the done to whom as party the land was transferred through gift at initial stage and on that account the pre-emption petition also was defective and the learned Collector, without considering these facts appropriately, wrongly confirmed the order of learned DCLR, which is legally not sustainable. He lastly said that as the impugned order of learned Collector is illegal, arbitrary and beyond the legal issues involved in the case, the same is fit to be set aside.

The learned counsel appearing on behalf of the respondent vehemently opposed the arguments forwarded by the learned counsel for the petitioner and submitted that the impugned order is just, proper and valid having no illegality as such the same is fit to be upheld.



He further argued that the respondent is the adjoining raiyat of the transferred plot as such his claim of pre-emption was a valid claim and this was proved from the fact that the pre-emptors name was shown in the sale deed document. He further submitted that it was only with a view to defeat the rightful claim of the pre-emption, the petitioner deliberately and in a well planned manner transferred the said land through gift deed to others. Regarding the claim of the petitioners that the persons to whom the land was transferred by gift deed having not made as party. In the case before DCLR, the learned counsel said that it is a wholly wrong claim as the said persons were impleaded as party in the case subsequently and even the Collector also held so. The learned counsel further referred to various judgements of Hon'ble High Court in the similar nature of case wherein it has been held that sham and farzi gift deed are not outside the provision of section 16(3). He lastly submitted that as the impugned order is a valid order, the same is fit to be upheld.

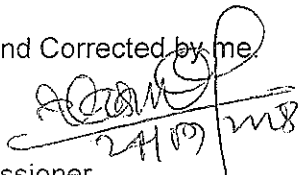
Considering the facts and circumstances of the case, material available on records, claims and counter claims made by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that in the instant case the only contentious issue involved is to decide as to whether the findings arrived at by the learned Collector, Siwan holding the pre-emptor as the adjoining raiyat of the disputed land is valid or not vis-a-vis the claim of purchaser petitioner that the gifted land is outside the purview of pre-emption claim and over such land no pre-emption right is maintainable. It is seen that the learned Collector in his detailed order has discussed each and every aspects of the case keeping in view the very intention of legislature in framing the section 16(3) and finally arrived at the finding that the plea of gift has only been brought with a view to defeat the pre-emption right. He also held that the claim of pre-emptor is quite valid in view of the fact that his name has been shown in the boundary of the vended land. The relevant portion of the order of Collector reads thus:

"उभय पक्षों द्वारा दी गयी दलीलों की विवेचना एवं अभिलेख में उपलब्ध कागजातों के परिशीलन के उपरान्त विपक्षी का दावा तार्किक एवं सही प्रतीत होता है तथा विक्रीनामा के निरीक्षण से भी विवादी भूमि के विपक्षी के boundary raiyat होने की पुष्टि होती है जबकि अपीलार्थी का boundary raiyat होने का दावा आधारहीन एवं गलत है। विपक्षी का यह दावा भी सही प्रतीत होता है कि धारा 16(3) के प्रावधान को defeat करने के लिए जानबुझकर अपीलार्थी द्वारा बक्शीसनामा का सहारा लिया गया और यदि ऐसे बक्शीसनामा की अहमियत दी जानी लगे तो फिर Bihar Reforms (Fixation of Ceiling Areas and Acquisition of surplus Lands) Act-1961 की धारा 16(3) की कोई सार्थकता एवं उपयोगिता ही नहीं रह पाएगी। उपरोक्त वर्णित तथ्यों के आलोक में अपील आवेदन अस्वीकृत किया जाता है तथा मूल अभिलेख भूमि सुधार उप समाहर्ता, सीवान को वापस करते हुए निदेशित किया जाता है कि वे विधिवत अपीलार्थी की पतोहु आशा देवी एवं शान्ति देवी जिनके नाम बक्शीसनामा किया गया है, को इस वाद में पक्षकार बनाते हुए तथा उनको नोटिस कर निम्न न्यायालय के आवेदक रंगलाल चौहान के पक्ष में प्रश्नगत भूमि विक्रीनामा में निहित शर्तों एवं धारा 16(3) के आलोक में आवेदक के पक्ष में निर्धारित समय सीमा के अन्दर अन्तरित करायेंगे।"

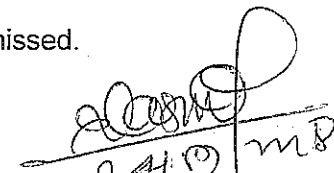
Thus, I do not find any apparent infirmity in the aforementioned findings of the learned Collector, Siwan as such the same is upheld.

In the result this revision application stands dismissed.

Dictated and Corrected by me

  
24/10/18

Commissioner  
Saran Division, Chapra.

  
24/10/18  
Commissioner  
Saran Division, Chapra.