

In The Court of Commissioner, Saran Division, Chapra

Land Ceiling Rev. No. 297/2008

Most. Saida Khatoon & ors.

'Vrs.

Asif Imam

ORDER

The instant revision application is directed against the impugned order passed by Collector in Land Ceiling 16(3) Appeal case No. 05/2007 on 06.03.2008.

The brief facts of the case are that Nurul Imam, Imam Hasan and Imamuddin, all sons of Abdul Gani R/o Vill-Dharam Parsa, P.S.-Manjhagarh, Dist-Gopalganj, claiming themselves to be the co-sharer and boundary raiyat of the vended land, measuring 3 katha 3 ½ dhur of khata No. 57, plot No. 340, situated in Mouza Dharam Parsa, filed a pre-emption petition vide Land Ceiling 16(3) case No. 14/2005-06 before DCLR, Maharajganj. The said case was dismissed vide order dt. 19.01.2007 due to the continuous absent of the petitioner from the Court proceeding. Feeling aggrieved by the said order, the petitioner filed an appeal before Collector, Gopalganj vide Land Ceiling 16(3) Appeal case No. 05/2007. The said appeal case was also dismissed vide order dt. 06.03.2008 on the ground the petitioner remained continuously absent from the Court proceeding without having any valid and reasonable cause.

On being aggrieved by and dissatisfied with the order of learned Collector, Gopalganj the petitioner has preferred the instant revision case before this Court. Meanwhile, during the pendency of the case before this Court, the petitioner No.1 and o.p. No.1 died which led to substitution of the name of their legal representative in the instant case vide order of this Court dt. 17.07.2012.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner in his brief argument submitted that the impugned order has been passed erroneously and illegality without affording any opportunity to the petitioner to plead his case on merit. He further submitted that although, last chance was granted to the petitioner but due to some unavoidable circumstances, he could not appear in the case and for that reason his appeal petition was dismissed without considering the merit of the case. He lastly submitted that the impugned order is fit to be set aside.

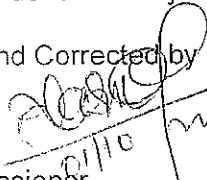
The learned counsel appearing on behalf of the respondent, on the other hand, submitted that the petitioner from the very beginning has adopted the tactics of keeping absent himself from the Court proceeding without any valid cause as such his case has been dismissed by both the learned Courts below. He also strongly submitted that the petitioner was absent on 12 dates before the appellate Court, this attitude of the petitioner was enough for the learned Collector to formulate the view that the petitioner had no real interest to pursue his case. He lastly submitted that the instant revision petition being devoid of any merit it fit to be dismissed.

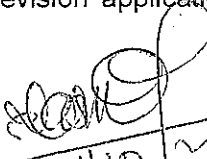
Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that the petitioner's appeal case has been dismissed in default by the learned Collector, Gopalganj as the petitioner remained absent on 12 successive dates. Obviously this conduct of the petitioner is not appropriate. It is also seen from the record that the original case of the petitioner before DCLR, Gopalganj was also dismissed in default for

the same reason like continuous absent from the Court proceeding. In fact this kind of approach of the petitioner clearly reflects his attitude that he has no genuine interest to pursue his case for the ends of justice and such act can not be commendable. The learned Collector in this impugned order has discussed in detail about the whole approach of the petitioner in detail wherein he held that the petitioner used to keep himself absent from the Court proceeding without citing any sufficient cause. I find that this kind of deliberate attempt by the petitioner to linger the disposal of the case on one or another pretext is not a good approach and for such approach the petitioner does not deserve any leniency. Even the learned counsel for the petitioner failed to point out any specific infirmity in the said findings of Collector, Gopalganj.

In the light of discussion made as above, this Court does not find any reason to accept the contentions forwarded by the learned counsel for the petitioner. As such the impugned order passed by Collector, Gopalganj is upheld and this revision application being completely devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.