

**In The Court of Commissioner, Saran Division, Chapra**  
**Land Ceiling Revision No. 225/2014**  
**Vijay Kumar Srivastva**  
**Vrs.**  
**Satish Kumar Tiwary & ors.**  
**ORDER**

The instant revision petition is directed against the impugned order passed by Collector, Siwan in Land Ceiling 16(3) pre-emption appeal No. 55/2005-06 on 02.07.2014.

The brief facts of the case are that the disputed piece of land measuring 1 katha 10 dhur 12 ½ dhurki appertaining to khata No. 39, survey plot No. 2219 situated in Mouza Karom was transferred to present petitioner, Vijay Kumar Srivastva S/o Surendra Pd. Srivastva R/o village Karom, P.S.-Darauli, Dist-Siwan through registered sale deed by one Awadesh Kumar Tiwary S/o Girija Pati Tiwary of the same village on 10.04.2003. Thereafter, the present petitioner Satish Kumar Tiwari claiming himself to be co-sharer and adjoining raiyat of the transferred land filed a pre-emption case bearing Land Ceiling Case No. 79/2003 before DCLR, Siwan Sadar. The learned DCLR after hearing the parties finally vide order dt. 28.07.2005 rejected the pre-emption claim of the present respondent No.1 as the pre-emptor failed to prove himself as the boundary raiyat of the vended land whereas the purchaser (present petitioner) proved himself to be a landless person. Feeling aggrieved by the said order, the present respondent No.1 (pre-emptor) filed an appeal before Collector, Siwan vide Land Ceiling 16(3) pre-emption appeal No. 55/2005-06. The learned Collector vide order dt. 02.07.2014 allowed the said appeal in favour of pre-emptor. On being aggrieved by and dissatisfied with the aforesaid order of Collector, Siwan the present petitioner has preferred the instant revision case before this Court.

Heard the learned counsel for the parties

The learned counsel appearing on behalf of the petitioner at the very outset of his argument submitted that the said order is bad in law because the same is against the weight of evidence on record. He further argued that the respondent No. 1 is neither the co-sharer or adjoining raiyat of the disputed land and as such he has got no right to file pre-emption petition. He also submitted that the learned Collector ought to have held that the land in question is a small piece of land and the same can not be purchased for agricultural purpose and the other important point is that the petitioner is a landless person against whom ceiling Act. does not apply. He further argued that the learned DCLR has rightly rejected the claim of the respondent No.1 that he was not a boundary raiyat as he failed to place any proof through documentary evidence and even his name is not mentioned in any of the boundary of the disputed land in the sale deed document. The learned counsel while assailing the claim of co-sharer status of the respondent No.1, submitted that as partition has been reached in the family the o.p. No.1 has lost his status of co-sharer and similarly his name is nowhere in the sale deed document as boundary man, his claim of boundary raiyat is a false claim. In the same way, he further submitted that, petitioner is a landless person and in order to prove that he also discussed in detail as to how after decree in partition suit, father of the petitioner only get about 01 bigha 5 katha land in his share and from that the petitioner would get only 4 katha land. He lastly said that since the petitioner's claim of landless person is an established fact through documentary evidence, this revision petition is fit to be allowed in view of the fact that it has almost settled law that no pre-emption claim is maintainable against a landless person.

The learned counsel appearing on behalf of the respondent No.1 strongly opposed the arguments forwarded by the learned counsel for the petitioner and submitted that it is entirely a wrong claim made by the petitioner that he is a landless person as he has never stated so before learned Courts below in the beginning but later on claiming so through an affidavit is just a tactics adopted for getting undue benefit, which is illegal. He further argued that the respondent No.1 is both co-sharer and adjoining raiyat of the land in question as the vendor respondent No.2 is his full brother and share of the respondent No.1 exists in the western side of the vended land. He further submitted that only with a view to defeat the pre-emption right of the respondent No.1, the vendor deliberately mentioned as 'Niz' in north and west boundary in the sale deed document. The learned counsel lastly submitted that the learned Collector, has rightly decided the case in favour of the respondent No.1 after careful consideration of the factual matrix of the case appropriately and there is no infirmity in the said order, as such the same is fit to be upheld.

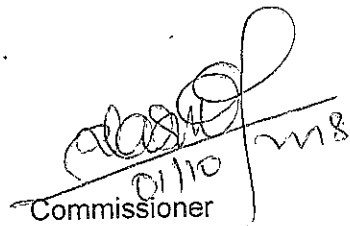
Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the learned counsel for the parties, points discussed in their respective written statements and on perusal of the impugned order it is seen that in the instant case, only important issues to be decided as to whether the petitioner really comes under the purview of a landless person or not and secondly whether the pre-emptor respondent No. 1 succeed in establishing his claim of adjoining raiyat and co-sharer of the vended land. It is to be noted that the petitioner has tried his best to prove himself as a landless person on the basis of partition suit of his family in which his father got only 1 bigha 5 katha land and on that basis he would get only 4 katha land. But the learned Collector while dealing with this contention of the present petitioner held the same claim as unproved one on the basis of W.S. filed by the father of petitioner in a case before Civil Court. On the other hand the second issue relating to claim of respondent No.1 of he being adjoining raiyat and co-sharer has been held to be true by the Collector as the present petitioner failed to establish the story of partition in the family on the basis of any documentary evidence so as to resist his said claim. Thus, I find that the learned Collector, has decided the contentious issues of this case appropriately by appreciating the facts of the case and various documents filed by the parties. I do not find any infirmity in the said findings which is speaking and reasoned. Even the learned counsel for the petitioner miserably failed to point out any specific illegality in the impugned order of Collector, Siwan.

For the aforementioned reasons, the impugned order of Collector, Siwan is upheld.

In the result this revision application stands dismissed.

Dictated and Corrected by me

  
01/10/2018  
Commissioner  
Saran Division, Chapra.

  
01/10/2018  
Commissioner  
Saran Division, Chapra.