

**In The Court of Commissioner, Saran Division, Chapra**  
**Land Ceiling (pre-emption) Revision No. 09/2016**  
**Dilip Verma & ors.**

**Vrs.**  
**Omprakash Dixit & ors.**

**ORDER**

The instant revision application is directed against the impugned order passed by Collector, Gopalganj in Land Ceiling 16(3) Appeal case No. 10/2014 on 15.12.2015.

The brief facts of the case are that the present respondent Omprakash Dixit R/o Vill-Chanaripatti, P.S. and Circle-Fulwariya, Dist-Gopalganj purchased the disputed piece of land measuring a total of 3 katha, having 1 katha 10 dhur each of plot No. 478 and 479, of khata No. 110, situated in Mouza Chanaripatti through registered sale deed dt. 16.12.2013 from o.p. second set. Thereafter, the present petitioners, Dilip Verma and ors. Claiming themselves to be co-sharer and adjoining raiyat of the vended land, filed a pre-emption case having land Ceiling 16(3) case No. 16/13-14 before DCLR for reconviyance of the said land under section 16(3) of Bihar Land Reforms (Fixation of Ceiling Areas and Acquisition of surplus land) Act.1961. The learned DCLR after hearing the parties finally vide order dt. 26.06.2014 allowed the said case holding that the disputed land to be of agricultural nature and the pre-emption as co-sharer and adjoining raiyat of the said land. Feeling aggrieved by the said order, the present respondent No.1 preferred an appeal case before Collector, Gopalganj by way of filing Land Ceiling 16(3) Appeal case No. 10/2014. The learned Collector, Gopalganj after hearing the parties finally vide order dt. 15.12.2015 reversed the finding of learned DCLR and in turn allowed the said appeal in favour of the present respondent No.1 on the account that the said disputed land comes under residential category and the purchaser is a landless person against whom no pre-emption claim is maintainable.

On being aggrieved by and dissatisfied with the aforesaid order of Collector, Gopalganj the present petitioner preferred the instant revision case before this Court.

Heard the learned counsel for the parties.

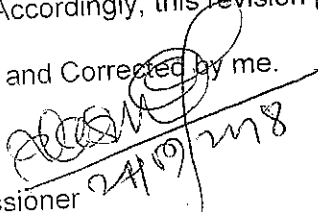
The learned counsel appearing on behalf of the petitioner at the very outset of his argument assailed the impugned order passed by Collector, Gopalganj by saying that the same is against the law as well as against the material facts available on records. He further submitted that the respondents are no way are landless person and even the land has been recorded in the sale deed document as Do Fasla measuring thereby the land is of agricultural nature. He also argued that the vendors of the disputed land belongs to the family of the petitioner as such he becomes co-sharer and also having land adjacent to the vended land so they are very much entitled to claim their pre-emption right. But the learned Collector, without considering these facts allowed the appeal in favour of the respondent No.1 which is illegal and arbitrary. The learned counsel further argued that the learned DCLR, Hathua after considering the relevant facts had allowed the pre-emption claim of the petitioner and the same findings was ought to have been confirmed by the learned Collector. He further submitted that the respondent No.1 is not a landless person as his family owned altogether 16 bighas of land. He lastly submitted that as the impugned order is arbitrary, erroneous and against the material facts on record, the said order is fit to be set aside.

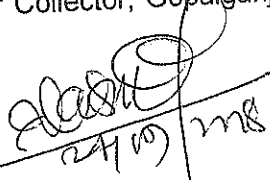
The learned counsel appearing on behalf of the respondent No.1 vehemently opposed the arguments forwarded by the learned counsel for the petitioner and submitted that the impugned order is just and proper and valid having no scope of interference. He further argued that the claim of the petitioner that the disputed land is of agricultural nature is totally wrong as the Asstt. Inspector, General, Registration himself after making inquiry about the nature of land finally concluded that the said land is of residential nature and accordingly the deficit stamp Fee of Rs. 31897 was deposited by the purchaser as fee for residential land. The learned counsel further said that the respondent is a landless person as he possessed less than one acre of land and is also a BPL card holder. The learned counsel lastly submitted that since the learned D.M. after considering each and every aspects of the case properly has passed the impugned order the same is sustainable in law and the present revision petition lacking merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, claim and counter claims made by the learned counsel for the parties and on perusal of the impugned order is seen that in the instant case the only relevant points need consideration as to whether the disputed land is of agricultural nature or residential nature and secondly, the respondent comes under the category of landless person or not. The learned counsel for the petitioner is of the view that the said land is of agricultural nature and secondly, the fact that the said land was found to be of residential nature as the same has been shown to be Do-Fasla in the sale deed document. This plea of the petitioners counsel fails in view of the fact that the said land was found to be of residential nature in local inspection by AIG, Registration and the enhanced stamp duty imposed on the purchaser was deposited through challan. Thus, the findings of AIG, Registration with respect to nature of the disputed land can not be disputed at this stage and it has been rightly held so by the Collector. The other important point regarding the landless status of the respondents No.1 has also been confirmed by the Collector relying on the landless certificate issued by C.O. through letter No. 884 dt. 23.06.2014 in which a total of two bigha 3 katha 15 dhur land has been found to be in joint share of the respondent. Thus, I do not find any apparent error in the said findings of Collector. The learned counsel for the petitioner failed to point out any specific illegality in the impugned order of Collector.

For the aforementioned reasons, the impugned order of Collector, Gopalganj is upheld. Accordingly, this revision petition is dismissed.

Dictated and Corrected by me.

  
Commissioner  
Saran Division, Chapra.

  
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Saran Division, Chapra.