

In The Court of Commissioner, Saran Division, Chapra
Land Ceiling (Pre-emption) Rev. No. 111/2015

Randhir Kumar Singh

Vrs.

Mina Devi & ors.

ORDER

The instant revision petition is directed against the impugned order passed by Addl. Collector, Saran in Land Ceiling (pre-emption) Appeal No. 26/2014 on 19.03.2015.

The brief facts of the case are that the disputed piece of land measuring 1 katha 8 dhur appertaining to khata No. 2, plot No. 449 situated in Mouza-Machagra in the district of Saran was transferred to present respondent Meena Devi through registered sale deed dt. 21.02.2012 by one Dhan Kishore Singh. Thereafter, the present petitioners Randhir Kumar Singh claiming himself to be the co-sharer and adjoining raiyat of the vended land filed a pre-emption case bearing Land Ceiling case No. 06/2012-13 before DCLR, Chapra Sadar. The learned DCLR after hearing the case, finally vide order dt. 18.07.14 disallowed the pre-emption claim on the ground that the said disputed land was transferred on 07.04.2012 by the purchaser in favour of his son and no pre-emption claim is maintainable on gift deed. Feeling aggrieved by the said order, the present petitioner preferred an appeal case before Addl. Collector, Saran vide Land Ceiling (pre-emption) Appeal No. 26/2014 and in the said appeal the learned Addl. Collector, Saran held that the findings of learned DCLR was correct as such there was no need of any interference in that accordingly he affirmed the order of DCLR and accordingly rejected the appeal case vide order dt. 19.03.2015. On being aggrieved by the said order, the present petitioner has preferred the instant revision case before this Court.

Heard the learned counsel for the respondent only as the learned counsel for the petitioner remained absent despite being given last chance earlier. The learned J.C. to senior counsel for the appellant, present in the Court, agreed to file W.S.

The learned counsel for the petitioner in his written statement has discussed in detail as to how and why the petitioner comes to be co-sharer and adjoining raiyat of the disputed land and further also wrote that it was only with a view to defeat his pre-emption right the said disputed land was transferred by the purchaser to his minor son through gift deed. He further wrote that learned Court below has not applied its mind to consider the facts and also the rulings cited which clearly shows that the gift deed executed prior to filing of pre-emption petition is an attempt to defeat the pre-emption right. He also mentioned that learned Court below never inspected the nature of disputed land which has been mentioned as irrigated in the sale deed. It has been further mentioned that the said gift deed has been brought only with ulterior motive to defeat the pre-emption claim and the said gift deed is a show transaction as after transaction, the donee, being a minor, never came in possession over that. The learned counsel also annexed copies several rulings in support his claim that the said gift deed was not a valid gift and the same has been brought only with a view to defeat the rightful claim of the petitioner.

The learned counsel appearing on behalf of the respondent while arguing the case, supported the impugned order and said that the concurrent findings of both the learned Courts are legally valid and there is no need to make any interference. He further argued that the area of disputed land is just 1 katha 8 dhur and as the purchaser after purchasing the said land made a gift through registered sale deed on 07.04.2012, much before the filing of pre-emption case No. 10.05.2012 before DCLR, the pre-emption claim becomes non-maintainable

as per the settled law in the matter. He further submitted that Court can not examine the validity of gift of any registered document which has been executed by the purchaser to other person prior to filing of the pre-emption case and in support of that contention he also referred to some of the reported judgement of Hon'ble High Court. He further argued that o.p. No. 1 is a landless person against whom also no pre-emption case is maintainable. He lastly said that the impugned order is valid order as such the same is fit to be confirmed.

Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the parties through oral submission as well as in their W.S. and on perusal of the impugned order, it is seen that the only issue to be decided as to whether the gift deed executed by the purchaser respondent in favour of her minor son, much before the filing of pre-emption petitioner is a valid gift deed or the same has been done with a view to defeat the pre-emption right of the pre-emptor. Both parties relied upon the various decisions of the Hon'ble High Court passed in the more or less similar facts and circumstances as of this case. However, it is important to see that the gift deed is executed on 07.04.2012 and pre-emption petition is filed before learned DCLR on 10.05.2012. These two dates are very crucial to test the genuineness of the gift deed. It is also seen that the learned Courts below has appropriately decided this contentious issue regarding genuineness of the gift deed, keeping in view the settled law in the matter. This Court does not find any good ground to re-examine the same. Even the learned counsel for the petitioner failed to prove any illegality in the findings of the learned Court below.

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

Dictated and Corrected by me

Commissioner
Saran Division, Chapra.

Commissioner
Saran Division, Chapra.