

**In The Court of Commissioner, Saran Division, Chapra**

**Land Ceiling Rev. No. 53/2015**

**Ram Kishore Singh & ors.**

**Vrs.**

**Satya Narain Singh & ors.**

**ORDER**

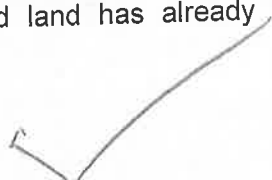
The instant revision petition is directed against the impugned order passed by Addl. Collector, Saran in Land Ceiling (pre-emption) Appeal No. 23/2013 on 19.08.2015.

The brief facts of the case are that the present petitioners filed a case bearing Land Ceiling case No. 28/12-13 before DCLR, Chapra Sadar under the provision of section 16(3) of Bihar Land Reforms (Fixation of Ceiling Areas and Acquisition of Surplus Land) Act-1961 with respect to a piece of land measuring 18 dhur 01 khata No. 122, survey No. 490, situate in Mouza katra Newaji Tola, P.S. Rivilganj, Dist-Saran. Further case is that the said land in question was transferred to the present respondent first set by respondent 2<sup>nd</sup> set through registered sale deed. Thereafter, the petitioners claiming themselves to be adjoining raiyat of the vended land and the land being agricultural in nature, they filed a pre-emption case before DCLR, Chapra Sadar. The learned DCLR, after hearing the case finally vide order dt. 27.08.2013 arrived at the findings that through the petitioners are the adjoining raiyat of disputed land but the nature of the said land was no longer agricultural rather the same has been changed into homestead as such pre-emption claim is not permissible on the homestead land. Feeling aggrieved by the said order, the petitioner preferred an appeal case vide Land Ceiling Appeal No. 23/2013 before Addl. Collector, Saran who in turn upheld the order of learned DCLR on the selfsame ground and accordingly rejected the said appeal case vide order dt. 19.01.2015 on being aggrieved by the said order of Addl. Collector, Saran the petitioners have preferred the instant revision petition before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioners while assailing the impugned order strongly submitted that the learned Court below without appreciating the legal impact of the case dismissed the appeal simply on the ground that in the registered sale deed the land in question is recorded to have been purchased for residential purpose and there are several houses in the vicinity of the said land. He further argued that he learned Court below despite holding the petitioner as adjoining raiyat of the transferred land did not allow pre-emption claim. He also submitted that the learned lower Court failed to appreciate the report of Advocate Commissioner who had observed that the land in question is not for residential purpose but for agricultural purpose. He also argued that the various decisions of the Hon'ble High Court referred to in support has been not taken into consideration by the learned Courts below. The learned counsel lastly submitted that as the impugned order is arbitrary and beyond the material facts of the case, the same is fit to be set aside and this revision petition is fit to be allowed.

The learned counsel appearing on behalf of the respondent, while opposing the arguments forwarded by the learned counsel for the petitioners, submitted that the impugned order is just and proper having no illegality and the same is fit to be upheld. He further submitted that the respondent had purchased the small piece of land, measuring 18 dhur only with a purpose for constructing his house and the said purpose has also been mentioned in the recital of the sale deed. He also submitted that the said land has already been changed into

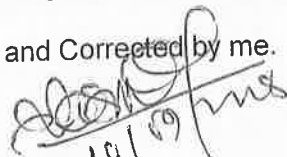


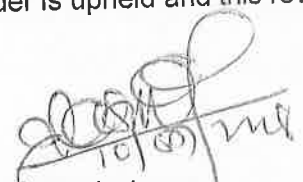
homestead land as large numbers of residential house are situated in the vicinity of the said land. The learned counsel lastly said that the report of advocate Commissioner as well as recital of sale deed document are strong point to show that the nature of land is no longer agricultural land rather the same is homestead land and as such no pre-emption claim is maintainable over the said land.

Considering the facts and circumstances of the case, material available on records, claim and counter claims made by the learned counsel for the contesting parties and on perusal of the impugned order, it is seen that the main issue in the case is to decide as to whether the said small piece of land be held as agricultural land or residential land. The contention of the petitioners are that the said land is agricultural in nature and they being the adjoining raiyat of the vended land their pre-emption claim ought to have been allowed by the learned Court below. On contrary, the learned counsel for the respondent is of the view that the said land is no longer remained as agricultural land as large no numbers of residential houses have been constructed in the vicinity and the respondent also purchased the said small piece of land for constructing his house and his said intention reflects in the recital of the sale deed document as such on homestead land no pre-emption claim is maintainable. This plea of the respondent seems to be acceptable in view of the fact that the area of disputed land is only 18 dhur and such a small piece of land can not be feasible for smooth agricultural activities. In fact, the respondent has purchased the said land for constructing his house and the said intention of the petitioner is very much obvious from the recital of the sale deed document. The other important point goes in favour of the respondent is the report of advocate commissioner who in his spot inquiry report specifically mentioned that large number of residential houses are situated in the vicinity of the disputed land. What is important to be noted here that both the Courts below have held the said land as homestead land and on this ground the claim of pre-emption has been disallowed. Nothing is available on records to suggest that the said disputed land is of agricultural nature. The learned counsel for the petitioners failed to point out any specific illegality in the said order of Addl. Collector, Saran. This Court does not find any reasons to take a different view against the concurrent findings of the learned Court below.

For the reasons mentioned above, the impugned order 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.