

In The Court of Commissioner, Saran Division, Chapra
Land Ceiling (Pre-emption) Rev. No. 05/2013
Nagendra Singh & ors.

Vrs.

Brahama Nand Singh & ors.

ORDER

The instant revision petition is directed against the impugned order passed by Collector, Siwan in pre-emption Appeal case No. 397 of 2002 on 09.11.2012.

The brief facts of the case are that the disputed piece of land measuring 2 katha, appertaining to khata No. 30 survey plot No. 927 situated in Mouza shyampur, P.S.-Siwan Mufassil, Dist-Siwan was purchased by the present petitioners Nagendra Singh and Nand Lal Singh of the same village through registered sale deed on 02.08.2001. Thereafter, the present respondents claiming themselves to be the adjoining raiyat of the vended land, filed a pre-emption case vide L.C. case No. 60/2001-2002 under the provision of section 16(3) of Bihar Land Reforms (Fixation of Ceiling Areas and Acquisition of Surplus Land) Act-1961 before DCLR Siwan. The said pre-emption case was allowed in favour of the pre-emptor, vide order dt. 09.07.2002. This led to filing of an appeal case by the present petitioners before, Collector, Siwan and the said case was numbered as pre-emption Appeal case No. 397/2002. The learned Collector after hearing the parties finally vide order dt. 07.12.2004 reversed the order of learned DCLR, Siwan and accordingly allowed the said appeal case. Thereafter, the present respondents filed a revision case vide Revision NO. 16/2005 before Board of Revenue, Bihar, Patna and the said revision was allowed in favour of the present respondents. Feeling aggrieved by the said order, the petitioners approached the Hon'ble High Court by filing CWJC No. 15148/2006 in which the order was passed in favour of the present respondents. This led to filing of L.P.A. No. 743/2008 by the respondent in the Hon'ble High Court and said L.P.A. was disposed of vide order dt. 15.10.2011 with some observation and also directed the Collector, to pass a fresh order with regard to the nature of land after having heard both the parties. Then the case was again initiated and after having heard the parties, the learned Collector dismissed the case vide order dt. 09.11.2012.

On being aggrieved by and dissatisfied with the aforesaid order of Collector, Siwan, the present 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 petitioner submitted that the leaned lower Court misunderstood the scope of the case and evidence required for the same. He further submitted that as per the remand order, learned Court had to decide whether the nature of disputed land has changed from agricultural to homestead and whether the said land was situated in the commercial area. He further submitted that in the western part of the disputed plot is plot No. 925 which belongs to the respondent and they have constructed house and shops and this is sufficient to prove that the nature of the land has been changed and it has become homestead and



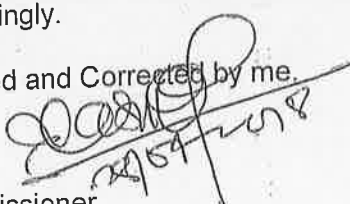
commercial. He also argued that the learned lower Court erred in relying on the report of the C.O. which was prima-facie wrong. He lastly submitted that the learned Courts did not consider the various rulings cited before them in support of pleadings as such the impugned order is fit to be dismissed.

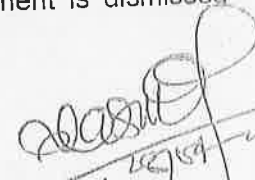
The learned counsel appearing on behalf of the respondents while opposing the arguments forwarded by the learned counsel for the petitioner, submitted that the instant revision application is hopelessly barred by law of limitation. He further submitted that the disputed land is of agricultural in nature and the learned DCLR and Collector after considering the said facts passed the order which is just, legal and valid. He further submitted that the report of C.O. clearly says that the plots surrounding the disputed plot are used for agricultural purpose and even at the time of inspection maize crops were found grown. He lastly submitted that the learned Collector has passed a reasoned and proper order as such the said order is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, claims and counter-claim made by the learned counsel for the parties and on perusal of the impugned order, it is seen that this case has come before this Court after covering a long journey. From the perusal of the impugned order it is quite obvious that the learned Collector has passed a detailed order considering each and every aspect of the case properly. It appears that the only dispute involves in this case relates to determination of the nature of disputed land. The present appellant is of the view that the said land is of homestead nature as such the same is not covered under the provision of Land Ceiling Act. On the other hand, the respondents are of the firm view that the said land is still of agricultural nature and the same was also found true in the report of C.O. It is seen that the learned Collector although earlier held that the said disputed land was purchased for residential purpose and the nature of said land is homestead and the same was even located in market area. However, when the case was remanded by the Hon'ble High Court to the Collector, Siwan vide order dt. 15.10.2011 with a specific direction to inquire into the nature of land, the Collector reversed his earlier findings and held that the said land is still of agricultural in nature. It is also pertinent to mention here that the said finding is based on the report of local C.O. I find that the learned Collector, after considering the whole facts of the case came to his final findings of fact so far as the determination of nature of land is concerned. I do not find any infirmity in the said order. The learned counsel for the petitioner failed to contradict the said findings of learned Collector with any substantial reason. ~~So as a different view may be taken by this Court.~~

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

Dictated and Corrected by me.


Commissioner
Saran Division, Chapra.


Commissioner
Saran Division, Chapra.