

In The Court of Commissioner, Saran Division, Chapra
Land Ceiling (pre-emption) Rev. No. 80/2015
Dukh Haran Sharma & ors.

Vrs.

Mahatam Singh & ors.

ORDER

The instant revision petition is directed against the impugned order passed by Collector, Gopalganj in Land Ceiling 16(3) Appeal case No. 13/2011 on 28.02.2015.

The brief facts of the case are that the disputed piece of land measuring 02 katha, appertaining to plot No. 257, khata No. 58 situated in Mouza Rampur in the district of Gopalganj was purchased by one Rajbanshi Bhagat father of the present respondent No.1 through registered sale deed on 24.09.2010. Thereafter, the present appellant, filed a petition before DCLR, Hathua for claiming pre-emption with respect to the said land and the case No. Land Ceiling 16(3) 14/2010-11 was registered. Subsequently, the learned DCLR after hearing the parties allowed the pre-emption claim vide order dt. 30.07.2011. Feeling aggrieved by the said order, the son of the purchaser, the present respondent No. 1 filed on appeal, bearing Land Ceiling-16(3) Appeal before Collector, Gopalganj who vide his order dt. 28.02.2015 reversed the order of the learned DCLR and in turn allowed the appeal in favour of the present respondent No.1. On being aggrieved by and dissatisfied with the said order passed by Collector, the present petitioner has preferred the instant revision petition before this Court.

The learned counsel appearing on behalf of the petitioner at the very outset of his arguments, submitted that the said order is legally not maintainable and factually incorrect as the evidence available on records has not been considered. He further submitted that in fact the learned Court should have considered the important fact that the petitioner is an adjoining raiyat and co-sharer of the vended land whereas purchaser is neither co-sharer nor adjoining raiyat and the land in question is agricultural in nature. The learned counsel also submitted that lower Court should have held that the vendee had already gifted the disputed property in favour of his sons with a view to defeat the claim of pre-emption. He also said that the learned lower Court wrongly ignored and did not consider the report of DCLR rather heavily relied upon the report of police and finally incorrectly reached at the conclusion that the land in question has lost its original character and it is no longer an agricultural land. He lastly said that as the impugned order has been passed mechanically without considering the factual matrix of the case, the said order is not sustainable and fit to be rejected.

The learned counsel appearing on behalf of the respondents while opposing the arguments forwarded by the learned counsel for the petitioner, submitted that the impugned order is valid, proper and justified in the eyes of law. He further submitted that the said 2 katha of land has been purchased by the father of the respondents for residential purpose. He further

submitted that the respondents are landless person and as per the rulings of Hon'ble High Court no pre-emption can be claimed against the landless person. He lastly said that the learned Collector after appreciating all the facts of the case finally passed the order which is fit to be confirmed.

Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that to in the instant case, the area of disputed piece of land is just 2 katha and the same was purchased by the father of the respondents for constructing residential house. On the other hand the claim of the petitioner is that as his name found place in the boundary of the vended land his pre-emption claim was allowed by the DCLR. Thus, I find that the actual dispute lies now between the parties so far as the nature of land is concerned. Although, the petitioner is of the view that the said land is agricultural as recorded in the sale deed document but the respondents are of the view that the said land was purchased for residential purpose. It is also seen that the learned Collector, has decided all the issues of this case through his detailed and exhaustive order touching upon every aspects of the case. The learned counsel for the petitioner has miserably failed to point out any specific illegality in the said order of the learned Collector so as to warrant any interference by this Court at the revisional stage.

For the aforementioned reasons, the impugned order passed by Collector, Gopalganj on 28.02.2015 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.