

**In The Court of Commissioner, Saran Division, Chapra
Land Ceiling Revision No. 89/2013**

Kedar Mahto

Vrs.

Renu Bala Devi & others

ORDER

21-2-13
The instant revision is directed against the impugned order passed Addl. Collector, Saran on 25.02.2013 in L.C. (Pre-emption) Appeal No. 01/2011.

The brief facts of the case are that the present respondent purchased a piece of land measuring 1 kaha 8 dhur, appertaining to khata No. 1577 plot No. 4779 situated in Mouza-Manjhi (Hasan Ali Bazar) from one Ganesh Pandit through registered sale deed on 20.11.2009. Thereafter, the present petitioner filed a pre-emption case before DCLR, Chapra Sadar vide L.C. No. 16/2009-10, claiming himself to be the adjoining raiyat of the vended land. The learned DCLR vide order dt. 14.12.10 allowed the pre-emption. This led to filing of an appeal by the present respondent before Addl. Collector, Saran vide L.C. Appeal No. 01/2011 which was allowed in favour of the present respondent vide order dt. 25.02.2013.

On being aggrieved by and dissatisfied with the aforesaid order of Addl. Collector, Saran, The present petitioner preferred this revision before this Court.

Heard The parties.

The learned counsel appearing on behalf of the petitioner submitted that the petitioner's name has been shown in the eastern boundary of the vended land as such he is the adjoining raiyat and on that basis, the learned DCLR had allowed the pre-emption. He further submitted that the respondent in the Court below has pleaded that she was a landless person having no other land in her name but the fact is that she has got substantial share in her father's property. He further argued that the appellate Court has not properly appreciated the pleader Commissioner report and objection filed upon them as such the impugned order be set aside.

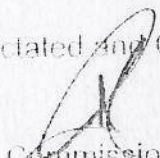
The learned counsel appearing on behalf of the respondent vehemently opposed the arguments advanced by the learned counsel for the petitioner and submitted that the respondent purchased the small piece of land for constructing her home and this intention very much reflects in the recital of the sale deed. He further submitted that even the pleader Commissioner as well as Addl. Collector in their spot enquiry found that the pre-emptor's house is also located in the surrounding of the vended land as well as other big and small houses besides residential and commercial buildings and Govt. Offices and there is f N.H. Road also in the vicinity of the disputed plot. He further argued that the purchaser qualifies to be a landless person as she has no other land in her name besides the purchased land which is under dispute and she




has also got a landless certificate issued from the circle office, Manjhi. He lastly submitted that although, petitioner's name appears in the eastern boundary of the disputed land, but the disputed land is no longer enjoy the status of the agricultural land so as to attract the provision of 16(3) of Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of surplus Land) Act. 1961.

Considering the facts and circumstances of the case material available on records and on going through the claims and counter-claims raised by the learned counsel for the contesting parties, it is seen that the disputed land is a tiny plot having area of 1 katha 8 dhur and the recital of the sale deed shows that the said land was purchased for constructing of home. However, the petitioner's claim is that as his name appears in the eastern boundary of the disputed land in the sale deed document he is an admitted adjoining raiyat and his pre-emption right can not be disputed. On the other hand, the respondent claims that the disputed land is not an agricultural land rather the same is a home stead land and the said land was purchased by the respondent for constructing house and the nature of land has been shown to be homestead in the sale deed. This plea of respondent is tenable in view of the fact that description of land given in the sale deed document is a strong evidence in deciding the nature of land. It is also equally important to mention here that the pleader Commissioner also in his local enquiry report, found that the petitioner's own house and many other residential houses and shops are located in the vicinity of the vended land. On this basis also the disputed land can not be held as agricultural land. The other important point raised by the petitioner that the respondent claims herself to be the landless lady but she has got some landed property from her father side. However the petitioner counsel miserably failed to prove this points through any documentary evidence whereas, the respondent proved this through a landless certificate issued in her favour by the circle office, Manjhi. This itself substantiate the landless status of the respondent beyond all reasonable doubts as she had no other land in her name on the day of this purchase. The learned counsel for the respondent also placed utmost reliance on several Judgement of Hon'ble High Court in which it has been held that pre-emption application is not maintainable against a landless person. From the above discussion it is quite obvious that the disputed piece of land is a tiny plot which has been purchased by the respondent for constructing her house and the same is being disputed by the pre-emptor now. Thus, it seems to me that there is no apparent infirmity in the impugned order of Addl. Collector, Saran dt. 25.02.2013. As such the same is upheld and this revision application is dismissed.

Dictated and Corrected by me.


Commissioner,
Saran Division, chapra


Commissioner,
Saran Division, Chapra