

**In The Court of Commissioner, Saran Division, Chapra
Land Ceiling Revision No. 119/2012**

Vishwanath Rai

Vrs.

Wakil Rai & others

ORDER

The instant revision petition is directed against the impugned order passed by Collector, Gopalganj in L.C. 16(3) Appeal case No. 33/2007 on 27.02.2012

The brief facts of the case are that one Vishwanath Rai S/o late Hikayat Rai R/o of Vill-Sirsa, P.S-Baikunthpur, Dist-Gopalganj purchased the disputed piece of land measuring 2 katha 2 ½ dhur appertaining to khata No. 567, plot No. 1795 through registered sale deed from on Tuntun Manjhi. Thereafter, the present respondent filed a pre-emption case vide L.C. case No. 14/2004-05 claiming himself to be the adjoining raiyat of the vended land which was allowed in favour of the present respondent. This led to filing of an appeal by the purchaser before the Collector, Gopalganj vide L.C. Appeal No. 33/2007 which was rejected vide order dt. 27.02.2012.

On being aggrieved by and dissatisfied with the aforesaid order the petitioner preferred this revision before this Court. However during the pendency of the revision, the original pre-emptor Bhoj Rai died and subsequently his two sons were substituted as respondent No. 1 and 2 respectively in the present revision.

Heard The parties.

The learned counsel appearing on behalf of the petitioner assailed the impugned order of Collector and submitted that the learned Collector wrongly held that the transferred land is not dii-basgit land rather he ought to have held that the transferred land is of dii-basgit. He further argued that the petitioner is a landless person and this fact was also not considered by the Collector as such the impugned order erroneous.

The learned counsel appearing on behalf of the respondent submitted that the respondent are the adjacent raiyat of the vended land and during the pendency of pre-emption petition, the purchaser tried to change the nature of vended land. He further submitted that the claim of the petitioner that he being a landless person and the nature of land is homestead is not acceptable as found in the spot inspection by DCLR.

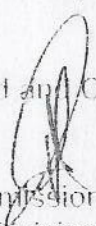
Considering the facts and circumstances of the case, material available on records and on going through the argument forwarded by the learned counsel for he parties, it seems to me that the disputed piece of land is a tiny plot and the size of the plot also has relevance to the issue whether the land in question is an agricultural land or not. The petitioner claims that he purchased the small piece of land and the same is




of homestead nature. This claim is acceptable in view of the fact that the size of the plot is too small to be used for agricultural activities. On the other hand the learned counsel for the respondent miserably failed to prove that the disputed land is of agricultural nature and the purchaser is not a landless person.

For the aforesaid reason and keeping in view the size of the disputed plot, the disputed land must be treated as homestead land. Hence the impugned order of Collector, Gopalganj is set aside and this revision is allowed.

Dictated and Corrected by me.


Commissioner,
Saran Division, chapra


Commissioner,
Saran Division, Chapra