

In The Court of Commissioner, Saran Division, Chapra

Land Ceiling (pre-emption) Revision No. 146/2013

Omprakash Mishra & ors.

Vrs.

Suresh Singh & ors.

ORDER

06-06-2016 - The instant revision petition is directed against the impugned order passed by Collector, Siwan in Land Ceiling 16(3) appeal case No. 03/2006-07 on 05.03.2013.

The brief facts of the case are that the disputed piece of land measuring 01 dhur 10 dhurki, appertaining to khata No. 239, survey plot No. 1439 and 1443 situated in Mouza-Basauki, P.S.-Basantpur, Dist-Siwan was transferred through registered sale deed dt. 07.07.2003 by one Babita Devi, W/o Brij Kishore Tiwary in favour of one Sushila Kuwar (since deceased) W/o late Jagnath Singh of the same village. Thereafter, one Kapildeo Mishra (since deceased) claiming himself to be the boundary raiyat of the vended land from eastern side, filed a pre-emption case bearing No. Land ceiling case No. 14/2003-04 before SDO, Maharajganj who after hearing the case allowed the pre-emption claim on the ground that the claim of the pre-emptor was true as he qualified as boundary raiyat of the vended land. Feeling aggrieved by the said order, the purchaser filed an appeal before Collector, Siwan vide Land Ceiling 16(3) Appeal case No. 03/2006-07 and the said appeal was allowed vide order dt. 05.03.2013 and the order passed by learned SDO was set aside.

On being aggrieved by and dissatisfied with the aforesaid order of the Collector, Siwan the present petitioners have preferred the instant revision case before this Court.

During the pendency of this case before this Court the original respondent No.1 Most. Sushila Kuwer died and subsequently the name of her legal representatives have been substituted in the case.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner submitted at the very outset of his argument that the learned Collector, Siwan has passed the impugned order against the law and facts of the case as such the same is not sustainable and fit to be set aside. He further submitted that the land under dispute is purely an agricultural land having no commercial nature and the same is even not situated in the market area. He further submitted that he learned lower Court of Collector without considering properly the legal aspects of the pre-emption claim passed the impugned order ignoring the very fact that the land in question was an agricultural land. He further argued that the learned SDO, Maharajganj had rightly allowed the claim of pre-emption which should have been legally considered and upheld without interfering with the findings. He lastly submitted that the impugned order is illegal, arbitrary and against law as such the same is fit to be set aside.

The learned counsel appearing on behalf of the respondents submitted that the said disputed land having an area 1 ½ dhur was purchased at the rate of homestead land and even in the sale deed it was mentioned that the said land was purchased for residential purpose. He further submitted that such a small piece of land can not be used by any person for agricultural purpose and even the said land is located in very proximately of the road where large Nos of grocery, fertilizer medicine, tea stall and Atta Chaki are located. He further submitted that the learned Collector has rightly allowed the appeal on the ground that such a small piece of land is not suitable for agricultural work and even the Hon'ble High Court also in several judgments held that small piece of land purchased for residential purpose over which pre-emption

claim is not maintainable. He lastly prayed that the impugned order having no illegality the same is fit to be upheld and this revision petition being devoid of any merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, pleadings advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that the learned Collector, Siwan has passed a detailed and reasoned order wherein he held that such a small piece of land measuring only 1 ½ dhur can not be used for agricultural purpose and he further held that in view of several rulings of Hon'ble High Court also in similar nature of cases, pre-emption claim over such small area is not maintainable. Obviously I do not find any illegality or infirmity in the said finding of the learned Collector. On the other hand the learned counsel for the petitioner also failed to point out any specific illegality in the said order so as to give any scope to this Court to make any interference in the revisional jurisdiction. It is also seen that the learned Collector has dealt with the matter in depth, considering all the relevant facts of the case appropriately, leaving no scope for this Court to take any different view in the matter and this Court also does not find any reason to discuss the same here again. In fact, the impugned order of the Collector, is a valid order.

For the aforementioned reasons, the impugned order passed by Collector, Siwan, is sustainable and hence the same is upheld.

In the result this revision application is dismissed.

Dictated and Corrected by me.


Commissioner,
Saran Division, Chapra


Commissioner,
Saran Division, Chapra