

In The Court of Commissioner, Saran Division, Chapra

**Land Ceiling (Pre-emption) Revision No. 216/13**

**Gangandeo Giri**

**Vrs.**

**Sarshwati Devi & ors.**

**ORDER**

17.02.2016 -- The instant revision application has been filed before this Court pursuant to direction contained in the order dt. 05.07.2013, passed in B.L.T. case No. 295/2013.

The instant revision case is directed against the impugned order passed by Collector, Siwan in L.C. section-16(3) Appeal case No. 220/2004 on 08.03.2013.

The brief facts of the case are that the present petitioner Gangandeo Giri S/o Late Rukhi Giri R/o Vill-Bhada Khurd, P.S.-Siwan Mufassil, Dist-Siwan has purchased the disputed piece of land measuring 10 dhur, appertaining to khata No. 113 survey No. 557 situated in Mauza Bhada Khurd from present respondent Nos. 3 & 4, Sheo Prasad Giri, S/o Bishwanath Giri and Manager Giri of the same village through registered sale deed on 04.07.2002. Thereafter, the present respondent No. 2, Sarshwati Devi W/o Prasad Pandey, claiming herself to be the adjoining raiyat and co-sharer of the vended land, filed a pre-emption case bearing L.C. pre-emption case No. 91/2002-03 before DCLR, Siwan. The learned DCLR after hearing the parties finally vide order dt. 11.03.2004 allowed the said pre-emption claim on the ground that the pre-emptor (present respondent No. 2) is the co-sharer and adjoining raiyat of the vended land. Feeling aggrieved by the said order, the present petitioner filed an appeal vide L.C. section-16(3) Appeal case No. 220/2004 before Collector, Siwan and the said appeal was disallowed and the order of DCLR was upheld vide order dt. 08.03.2013. However, the present petitioner instead of filing any revision application before this Court under the statutory provision of Bihar Land Reforms (Fixation of Ceiling Areas and Acquisition of Surplus Land) Act-1961, preferred to file a case before Bihar Land Tribunal. But the said case was disposed of with a direction to the petitioner to approach Div. Commissioner to avail the statutory remedy of revision. This led to coming up of this case before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioner assailed the impugned order by saying that the same is bad in law and facts both as the learned Court has not appreciated the facts and circumstances of the case properly before passing the order. He further argued that even the local inspection report submitted by C.O. Sadar Siwan in which it was specifically mentioned that the nature of the disputed land was turned into homestead and several houses and shops were existing in the vicinity besides construction work was going on but the said report was not considered at all. He further submitted that the pre-emption claim was not based on the ground that the said disputed land was to be used for agricultural land as no other vacant land was existing near the disputed plot be amalgamated with the said land for performing agricultural activities. He also submitted that the pre-emption right itself is a weak right and in case of small piece of land, the said pre-emption right can not succeed because a small piece of land can not be used for agricultural purpose rather the learned lower Court should have held that such a small piece of land can only be used for construction of the house. The learned counsel lastly prayed that pre-emption claim is not maintainable on such a small piece of land on the ground that the said disputed land has

been changed into homestead land as such the impugned order is fit to be set aside and this revision petition be allowed.

The learned counsel appearing on behalf of the respondent No.2, vehemently opposed the pleadings forwarded by the learned counsel for the petitioner and submitted that the impugned order is proper and reasoned having no scope of any interference at the revisional stage inasmuch as the revisional Court has to look only into the illegality of the impugned order. He further argued that it is an admitted fact that the respondent No.2 is the adjoining raiyat of the disputed land and the nature of land has been shown to be agricultural in the sale deed document and the status of the said land was of agricultural as reported by C.O. Siwan in his report on 26.03.2007 when he found Arhar and Wheat crops were found growing in the said disputed land. He further submitted that the petitioner does not have any share in the plot No. 557 was recorded in the name of Raj Balabh Giri and Sheo Prasad Giri and Manager Giri, the vendors, are the son of Raj Ballabh Giri as such the petitioner was no where in the boundary of the vended land. He lastly submitted that the learned Courts below have passed the order in favour of respondent No.2 after considering the legal points as such the present revision is fit to be dismissed.

Considering, the facts and circumstances of the case, material available on records, respective pleadings made by the learned counsel for the contesting parties and on perusal of the impugned order, it is seen that the area of the disputed land is only 10 dhur. The petitioner claim is that such a small piece of land can not be used for agricultural activities. The other contention of the petitioner is that the nature of land has been changed into homestead land as such no pre-emption claim can be allowed on such land. On the other hand the respondent No.2 claims that the nature of land has been described in the sale deed document as agricultural and in local inspection report of C.O. also it was mentioned that Arhar and Wheat crops were found grown in the said disputed land. It is seen that claim relating to nature of disputed land as well as the claim of co-sharer and adjoining raiyat status of the pre-emptor respondent have been discussed elaborately in the impugned order of Collector, Siwan. In fact the concurrent findings of Court below seems to be final and conclusive in view of the fact that the petitioner purchaser has failed to prove his case absolutely. Moreover, I do not find any good ground to make any interference in the impugned order at this stage in absence of any substantial evidence in support of the claim made by the petitioner.

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

Dictated and corrected by me.

*19.2.16*  
Commissioner,  
Saran Division, Chapra

*19.2.16*  
Commissioner,  
Saran Division, Chapra