

In The Court of Commissioner, Saran Division, Chapra

Land Ceiling (Pre-emption) Revision No. 193/2008

Jagdish Singh

Vrs.

Udai Kumar Singh & ors.

ORDER

12.10.2015- The instant revision application is directed against the impugned order passed by Addl. Collector, Saran in L.C. Appeal No. 36/2006 on 19.06.2008.

The brief facts of the case are that the disputed piece of land measuring 3 katha, appertaining to khata No. 180 R.S. plot No. 1387 situated in Mouza Mainpura of Revilganj circle in the district Saran, was purchased by the present respondent No. 1 Udai Kumar Singh, S/o Sooraj Singh R/o Mainpura from Musmat Bhagmani Kuar, W/o late Bhikham Tiwari through registered sale deed. Thereafter, one Jagdish Singh S/o Late Satya Narain Singh R/o of the same village, claiming himself to be the adjoining raiyat of the vended land filed a pre-emption case No. 32/2005-06 before DCLR Chapra Sadar. The learned DCLR, after hearing the parties rejected the said pre-emption case vide order dt. 10.07.2006. Feeling aggrieved by the said order, the present petitioner preferred an appeal vide L.C. Appeal No. 36/2006 before Addl. Collector, Saran and the said appeal was also dismissed vide order dt. 19.06.2006.

On being aggrieved by and dissatisfied with the aforesaid order passed in appeal by the Addl. Collector, Saran, the present petitioner has preferred this revision case before this Court.

Heard the parties.

The learned counsel appearing on behalf of the petitioner while assailing the impugned order of Addl. Collector, Saran submitted that the learned Addl. Collector did not consider the fact that the petitioner is the adjoining raiyat of the vended land which is very much discernible from the document. He further submitted that the purchaser, respondent No.1 executed the gift deed with respect to the said disputed land to her widow sister and the said gift deed is sham and farzi. He also argued that the sister of the purchaser has her own house and land in her father-in-laws village and the said gift deed was executed only with an intention to defeat the pre-emption right of the pre-emptor. The learned counsel lastly prayed that as the said gift deed be declared sham and farzi and on this ground the pre-emption right of the petitioner be restored and the impugned order be set aside.

The learned counsel appearing on behalf of the respondent No.1 vehemently opposed the submission advanced by the learned counsel for the petitioner and submitted that the impugned order is just and proper. He further argued that the petitioner is neither co-sharer nor adjoining raiyat of the vended land and on this ground alone his claim of pre-emption is fit to be rejected. He also submitted that the said disputed land alongwith some ancestral land was transferred by the respondent in favour of her widow sister through gift deed and accordingly put her in possession before the filing of pre-emption case and the petitioner having knowledge of the said gift deed wrongly brought the pre-emption case. He also argued that the nature of land has

been changed into residential and now large numbers of residential houses are situated in the vicinity of the said disputed plot. He also argued that the petitioner's name has not been mentioned in any of the boundary of the vended land rather the name of his father Late Bacha Singh is mentioned in the boundary and as such the petitioner has got no right to claim any pre-emption. The learned counsel lastly prayed that as both the Courts below have rejected the pre-emption claim of the petitioner, the petitioner claim is very much liable to be rejected by this Court also.

Considering the facts and circumstances of the case, material available on records, respective arguments advanced by the learned counsel for the parties and on perusal of the impugned order, it is seen that the petitioner's claim is solely based on the ground that he is the adjacent raiyat of the vended land and the said gift deed is sham and farzi. However, the respondent No. 1 disputes the said claim on the ground that no where in the boundary of the vended land, the petitioner's name has been mentioned rather the name of his father has been shown in the boundary of the vended land and on this ground his claim of pre-emption is not maintainable. The other relevant point that the said gift deed is sham and farzi is also contradicted by the respondent on the ground that the said gift deed was executed before the filing of pre-emption petition. I find that these points have been dealt with elaborately by the learned Courts below while rejecting the claim of pre-emption. So I am not inclined to discuss the same now again and take a different view now in absence of any substantial material facts. The learned counsel miserably failed to point out any specific illegality in the said order of Addl. Collector, Saran so as to warrant any interference.

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.

b
12-10-15
Commissioner,
Saran Division, Chapra

b
12-10-15
Commissioner,
Saran Division, Chapra