

In The Court of Commissioner, Saran Division, Chapra

Land Ceiling (Pre-emption) Revision No. 210/2013

Md. Hasid & Ors.

Vrs.

Seikh Ahmad & Ors.

ORDER

03.05.2016 - The instant revision application is directed against the impugned order passed by Addl. Collector, Saran in Land Ceiling (Pre-emption) Appeal No. 01/2009 on 27.06.2013

The brief facts of the case are that the disputed piece of land measuring a total of 3 katha 10 dhur 10 dhurki and appertaining to survey plot Nos. 1098, 1096, 1108 of khata No 125 & 124 of mouza Nipania P.S, Issuapur, Dist. Saran was transferred through registered sale deeds dt. 02.04.08 by one Ashraf Ali, S/o Md. Hadish R/o same village in favour of Sheikh Ahmad s/o Sheikh Dukhit of the same village. Thereafter, the present petitioner Md. Hasid s/o Late Kiss Mohamad, of the same village, claiming himself to be the adjoining raiyat of the dispute plot, filed a pre-emption case bearing Land Ceiling case No. 04/2008-09 before DCLR, Marhaurah but the said case was dismissed vide order dt. 22.04.2009. Feeling aggrieved by the said order, the present petitioner filed an appeal case vide Land ceiling (pre-emption) Appeal No 01/2009 before Addl. collector, Saran and the said appeal was also dismissed vide order dt. 27.06.2013 wherein it was held that the order passed by the learned DCLR is legally correct and accordingly the said order was confirmed also.

On being aggrieved by and dissatisfied with the aforesaid order, the present petitioner has preferred the instant revision case before this court.

Heard the learned counsel for the parties.


The learned counsel appearing on behalf of the petitioners at the very outset of his argument, submitted that the impugned order is bad in law and facts of the case and the same has been passed on conjectures and surmises than on reasonings. He further submitted in detail as to how the disputed land was purchased by the co-sharer from different vendors in the past through sale deeds and later on these three places of land were amalgamated for making a block and for which a partition suit No. 322/2006 is also pending before sub-judge Chapra. He also submitted that the vendor knowingly entered his own name in the western boundary of the disputed land and name of the petitioner has only been shown in the eastern boundary. He further claimed that the petitioner is the co-sharer and adjoining raiyat of the disputed land, but the learned Addl. Collector instead of considering the various documentary evidences filed before him in support of his claim were rejected without going in to various provision of the land ceiling Act. It was also submitted by the petitioner's counsel that the learned Addl. Collector has erred in not taking into consideration that a suit of partition bearing No. 322/2006 is pending before civil court which is sufficient to show that the pre-emptor petitioner and Ashraf Ali, the vendor are co-sharer of the disputed land. The learned counsel lastly said that as the petitioner is an admitted adjoining raiyat of the vended land, his claim of pre-emption needs to be allowed but by rejecting his said claim by the learned Addl. Collector makes the impugned order bad in law as such the same is fit to be set aside.

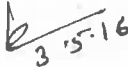
The learned counsel appearing on behalf of the respondent while opposing the arguments forwarded by the learned counsel for the petitioner, submitted that the instant revision application itself is not maintainable in the eyes of law inasmuch as the learned court have already rejected the claim of the pre-emption as such this revision petition is also fit to be dismissed by this court. He further submitted that although, the petitioner claim his pre-emption right against the purchaser respondent on the so called ground that he is the adjoining raiyat of the disputed land as well as co-sharer of the vendor but he did not place any documentary

evidence before the learned lower court. He further argued that the other claim of the petitioner that his name has not been mentioned in southern and western boundary of the vended land but the name of vendor was mentioned, but for ascertaining the correct fact, no local inspection prayer was made by the petitioner. The learned counsel lastly submitted that as the vendor himself is co-sharer and adjoining raiyat of the vended land and having no merit in his claim his claim is fit to be set aside.

Considering the facts and circumstances of the case, material available on records, respective submissions made by the learned counsel for the parties and on perusal of the impugned order, it is seen that in the instant case the only important point needs consideration as to whether the present petitioner is entitled for claiming per-emption on the ground of his alleged claim that he is the co-sharer and adjoining raiyat of the disputed land and his name has been wrongly shown in the boundary of the disputed plot. It is seen that the learned courts below have already deal with this matter appropriately and therefor the said claim of the present petitioner has been rejected on the ground that as the purchaser respondent himself is a boundary raiyat then in that situation the claim of pre-emption becomes weak obviously such finding of the learned courts below cannot be termed as arbitrary or illegal. Further the learned counsel for the petitioner has failed to prove any apparent illegalities in the said finding of the learned Addl. Collector, so as to warrant any interference at revisional stage. In fact this court does not find any good ground to interfere with the concurrent findings of the learned courts below. Accordingly the impugned order is upheld and this revision petition being devoid of any merit is dismissed.

Dictated and Corrected by me.


3-5-16
Commissioner,
Saran Division, Chapra


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Commissioner,
Saran Division, Chapra