

आदेश की क्रम सं०
और तारीख

आदेश और पदाधिकारी का हस्ताक्षर

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आदेश पर की गई
कार्रवाई के बारे में
टिप्पणी तारीख सहित**BOARD OF REVENUE, BIHAR, PATNA.**

Revision (Land Ceiling Pre-emption) Case No.- 10/2000 .

Dist.- Rohtas

PRESENT :- K.K. Pathak, I.A.S.,
ADDITIONAL MEMBER

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Arun Kumar Rai & Ors.

- Petitioner/ Appellant

Versus

Sumant Rai & Others-

- Opposite party

Appearance:

For the Appellant :

For the OP :

ORDER

01.12.2016

This case has been continuing in the Board of Revenue since the year 2000. During the pendency of the matter the case was heard on the issue of substitution of Sri Arun Kumar Rai and Sri Shyam Narayan Rai who were substituted in place of the deceased petitioner Sri Ambika Rai on 27.03.2012. Subsequently the case was dismissed on 24.07.2013 by the then Learned Additional Member for default. However later it was restored on 06.11.2013.

Today the case came up for hearing. Heard the Learned Advocate of the Petitioner Sri Arun Kumar Rai who is the son of Sri Ambika Rai who was the Opposite Party before the court of the Learned Additional Collector.

This revision has been preferred against the order of the Learned Additional Collector passed on 29.11.1999. Vide the said order, the Learned Additional Collector had over turned the order of the Learned DCLR passed on 14.08.1997.

The case of the Revisionist is that the plot no- 134 and 137 have been sold to the Opposite Party namely Sumant Rai, Balwant Rai and Rajnikant Rai by Most. Sanjhari Kuer. He claims that he is the adjacent raiyat and not the Ops and hence this pre-emption case has been filed to


आदेश की क्रम सं० गोपनीयता	2 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में दिनांकी तारीख सहित 3
	<p>undo the registered sale deed executed by Sanjhari Devi in favour of the Opposite Parties.</p> <p>I have perused the order of the Learned DCLR who had passed the order of in favour of the Revisionist Sri Arun Kumar Rai and had directed the Ops to transfer the land belonging to plot no-134 and 137 in his favour. Against this order the aggrieved OPs appealed before Learned Additional Collector who upheld the appeal while quashing the order of the Learned DCLR. Hence this revision was preferred.</p> <p>From the perusal of the order of the Learned DCLR, it is clear that the Revisionist is the adjoining raiyat for both the plots-134 and 137. Moreover in the sale deed itself it is evidently clear that the Opposite Party is not the adjoining raiyat. The sale deed itself establishes that the Revisionist is the adjoining raiyat. Hence the Learned DCLR rightly upheld the pre-emption case in favour of the Revisionist. Moreover the argument of the Opposite Party that this land is not for agriculture purpose but homestead land has also not been proved, as the khatiyani clearly indicates the land to be for agriculture purpose with category Dhanhar 2.</p> <p>Against this order of the Learned DCLR, the Opposite Party preferred an appeal before the Learned Additional Collector. The Learned Additional Collector heard the parties. The main argument of the Appellant was the land is being used for residential purpose and hence the Ceiling Law doesn't apply. The Learned Additional Collector allowed the appeal. However, this court finds that the Learned Additional Collector, while over turning the order of the lower court, has not given any reasonable findings for his concluding that the Appellant is a co-sharer and an adjacent raiyat. Apparently, the Learned Additional Collector has not gone in detail about the fact that as per the khatiyani, the land has been categorized as agriculture land. Nor has he dwelt in detail about the possibility of pre-</p>	


emptying the Ceiling Laws by showing agriculture land as homestead land.

As such, I do not find the basis of Additional Collector over ruling the order of the Learned DCLR very convincing. The Learned Additional Collector has ignored the entries of khatiyani and the boundaries of the disputed plot as mentioned in the sale deed which itself indicates that the OPs cannot be an adjoining raiyat.

Therefore I tend to disagree with the Learned Additional Collector and accordingly uphold the order passed by the Learned DCLR. It is further directed that the order of the Learned DCLR be implemented forthwith.

Dictated & Corrected


K.K.Pathak
Additional Member
Board of Revenue, Bihar.


(K.K.Pathak)
Additional Member
Board of Revenue, Bihar.