


आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
20.12.2016	<p style="text-align: center;"><u>BOARD OF REVENUE, BIHAR, PATNA.</u></p> <p style="text-align: center;">Revision (Land Ceiling Surplus) Case No.- 238/2002 Dist.- Siwan</p> <p>PRESENT :- K.K. Pathak, I.A.S., Additional Member</p> <p>=====</p> <p>Raj Nath Pandey and Others - Petitioner/ Appellant</p> <p>Versus</p> <p>Dig Vijay Pandey & Others- - Opposite party</p> <p>=====</p> <p><u>Appearance:</u></p> <p>For the Appellant/Revisionist : Shri Satyanand Shukla</p> <p>For the OP :</p> <p>For the State : Shri Nirmal Kumar, Special G.P.</p> <p style="text-align: center;"><u>ORDER</u></p> <p>This is a Pre-emption case filed on 25.09.2002 against the order of the Learned Collector Siwan dated 16.08.2002 passed in Pre-emption Appeal No 318/1995-96. Since then, the case was part heard on many days. The LCR took time to come and the LCR was finally received on 09.09.2015. In the mean time, the case was dismissed for default on 29.07.2009 as the Petitioner remained absent for many dates. Subsequently, a Restoration Petition was filed on 31.08.2009 and case was finally restored on 04.10.2010.</p> <p>Since then, the case was part heard on various dates. On 08.12.2016, the case again came up for hearing where the Learned Advocate of OPs No 3 to 5 was present but the Learned Advocate of the Petitioner was absent. A</p>	

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	<p>short adjournment was given and the case was finally heard on 19.12.2016 and this order is being passed.</p> <p>I heard the Learned Advocate of the Petitioner as well as the Learned Advocate of OPs No 3 to 5. The Learned Advocate of the Petitioner mentioned that he is the Pre-emptor who had filed a Pre-emption Application before the Court of the Learned DCLR who vide order dated 24.08.1995 rejected the Pre-emption application. Aggrieved at this order, the Revisionist appealed before the Learned Collector Siwan who by order dated 16.08.2002 confirmed the order of the Learned DCLR. Further aggrieved, the Revisionist has preferred this Revision Application.</p> <p>As per the Learned Advocate of the Revisionist the land is situated in Khatta No 498, Plot No 2042 having an area of 19 Dhur. He is the boundary raiyat of the disputed plot though not a Co-Sharer. As per the Learned Advocate of the Revisionist, the OPs also admit this. He further mentioned that OP No 3, 4 and 5 are the vendees who purchased the land from OP No 6 who is the vendor. He further confirmed that he is not related to OP No 3, 4, 5 and 6.</p> <p>The Learned Advocate of the Revisionist further mentioned that the sale deed (under challenge) was registered on 19.07.1994 and it says that it is a homestead land. In the year 1919, when the Revisional Survey was published, the land was recorded as homestead land. With the passage of time, the nature of land has changed from homestead to agriculture. The lands in the vicinity of the</p>	

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	<p>disputed plot are being used for agriculture purposes, hence pre-emption lies.</p> <p>The Learned Advocate of the OP 3 to 5 claimed that the disputed plot is less than 1 Katha and no agriculture is possible in such a small piece of land. It is in fact a homestead land and the Learned DCLR has also held that it is a homestead land. He further mentions that even the Petitioner has his own homestead in the vicinity. The land, therefore, is very much homestead and the sale deed proves it.</p> <p>From the arguments of both the parties and the perusal of the material available on the record as well as the Lower Court Record, my own findings are as under:-</p> <p>(a) I find that the area in general is being used for residential purposes having houses of many other persons not party to this dispute.</p> <p>(b) The fact that the Petitioner himself has a house in the vicinity has not been denied by the Petitioner either before this court or the Court of the Learned DCLR.</p> <p>(c) The sale deeds and the Khatiyan documents abundantly prove that the land in dispute has been entered as homestead since more than 100 years ago. More over the said land was used by the then landlord for homestead purposes.</p> <p>(d) The contention of the Revisionist that the land use has changed from residential to agriculture is rather difficult to digest. All over the country, the experience is otherwise, i.e. the land use generally</p>	

changes from agriculture to residential due to growing population, urbanisation and commercialisation.

(e) The Revisionist himself has admitted that he is not a Co-Sharer but only a boundary raiyat. This fact only proves the assertion of the OP that the Revisionist also lives in the vicinity. Only difference is that the Revisionist lives in a homestead dwelling rather than as a 'raiyat'.

Having said that, I find that there are enough documentary evidences to hold that the disputed plot along with adjoining areas are being used for homestead purposes. Therefore I find no reason to interfere with the orders passed by the Learned DCLR and Learned Collector Siwan.

Revision Dismissed.

Dictated & Corrected

K.K.Pathak

Additional Member
Board of Revenue, Bihar.

(K.K.Pathak)

Additional Member
Board of Revenue, Bihar.