

**BOARD OF REVENUE, BIHAR, PATNA.**

Revision (Land Ceiling Pre-emption) Case No.- 53/98 .

Dist.- Siwan

PRESENT :- K.K. Pathak, I.A.S.,  
Additional Member

=====

Moti Lal Mahto

- Petitioner/ Appellant

Versus

Sri Lal Babu Sah & Others-

- Opposite party

**Appearance:**

For the Appellant

: Sri Gajendra Kumar Singh

For the OP

: Ritu Shekhar

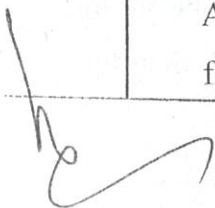
**ORDER**

07.12.2016

This case is pending before the Board of Revenue since 1998. In 1999 the then Additional Member heard the matter and kept the order reserved. However before he could passed a final order, he was transferred.

The matter remained pending till the year 2008 when the Revisionist Sri Motilal Mehto filed an application to find out as to what orders were passed in this case. Subsequently the matter was again taken up for fresh hearing. On 10.04.2013 the case was dismissed for default. But subsequently restored on 24.07.2013.

Now on 01.12.2016, the case again came up for hearing. Heard the Learned Advocate, Sri Motilal Mahto. He pleads that the Petitioner is a landless person and he is in the possession of the land since 1993. This court asked him whether he has filed any evidence in the shape of rent receipts to prove his possession. To this, the Learned Advocate replied that though he has the receipts, but did not file them since no lower court ever asked for it. He was



सी. एन. सं. प्री. एन. सं.	2 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश का ही नहीं कार्रवाई के बारे में विषयों का भी सहित
	<p>accordingly directed to file the rent receipts of the last 20 years with this court.</p> <p>The Learned Advocate of the Opposite Party (The pre-emptors) is absent. However the written arguments on behalf of the Opposite Party are available on record. The Lower Court Record of the Learned Collector, Siwan is also available.</p> <p>In brief, the issue at hand is that the pre-emptor Sri Lal Babu Sah filed a pre-emption application before the Court of Learned DCLR in the year 1994. The Learned DCLR heard the matter in detail. The contention of the pre-emptor was that he is both the co-sharer as well as the adjacent raiyat. The pre-emptor has purchased the land from one Vishwanath Mahto whose father was Laldhari Mahto. The other son of Laldhari Mahto namely, Banarsi Mahto sold the land to Motilal Mahto who is the Opposite Party in the present case.</p> <p>The case of Opposite Party is that the plot at hand has the house of the Opposite Party. The pre-emptor wanted to buy this land from the Opposite Party but since he had his house located on the plot, he expressed his inability to sell the land. This angered the Pre-emptor and hence he file the pre-emption application.</p> <p>The Learned DCLR, it appears, had conducted a site inspection and found that in plot no-914, as the house of Sri Motilal Mahto is located. As per the witnesses he is in the possession of the house for the last 20 years and living peacefully with his family. The Learned DCLR therefore</p>	



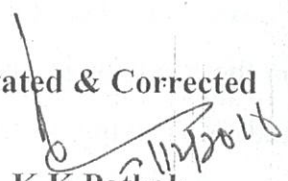
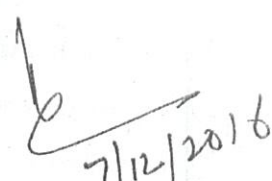
held that the claim of pre-emptor does not arise and he rejected the pre-emption petition on 09.03.1994.

Aggrieved with this order, Sri Lal Babu Sah filed an appeal before the Learned Collector, Siwan who passed an order on 03.01.1998. The Learned Collector held that the appellant is in deed an adjacent raiyat though not a co-sharer. It seems that the Opposite Party also purchased the land from the same family and hence the present dispute. The Learned Collector while rejecting the order of Learned DCLR has mentioned that the Learned DCLR did not mention the date of inspection of the site as well as prior intimation to the parties. He therefore rejected the site inspection report of the Learned DCLR and held that the Opposite Party namely, Sri Motilal Mahto had deliberately tried to show agriculture land as residential in order to circumvent the Ceiling Laws.

From the perusal of the Lower Court Records it seems that it is difficult to negate the fact that on the disputed land, there exists a katchcha structure belonging to Shri Motilal Mahto. Now, as per the findings of the Learned Collector the structure had been deliberately erected in order to defeat the Ceiling Laws. However it will be difficult to disprove the possession the Revisionist Sri Motilal Mahto <sup>if he is</sup> able to prove that he indeed is living on the plot for the last 20 years alongwith his family. For this purpose, he has been asked to submit the rent receipts for the last 20 years.

In response to this, the Revisionist Sri Motilal Mahto was asked to submit to rent receipts for the last 20 years. Since he claims to be in the possessions of that



<p>सी क्रमा सं० औरतारीय</p>	<p>4 आदेश और पदाधिकारी का हस्ताक्षर 2</p>	<p>आदेश पर की गई कार्रवाई के बारे में विभागीय तालीम सहित</p>
	<p>land. However, today he has submitted a rent receipts for the financial year 2012-13 which concerns only one year as against the claim of living their for the last 20years. And other paper he has produced is a certificate issued by Circle Inspector which says that the rent receipt till 2008-09 as been issued. It does not say since when he is paying the rent. Not does the certificate say that the land contains house of Sri Motilal Mahto. Hence the certificate cannot be relied upon as it has not been issued by the Circle Officer.</p> <p>Therefore it is evident that the Revisionist Sri Motilal Mahto has failed to prove that he has a house on the disputed plot since the last 20years and has been living on the same with his family. In fact none of the two documents submitted today by the Revisionist indicate that he has a house on the plot.</p> <p>Therefore, in the absence of any tangible proof that the Revisionist have been living their for the past 20years, I do not seen the need to interfere to the order of the Learned Collector, Siwan dated 03.01.1998 and uphold the same. Revision Petition thus dismissed.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div data-bbox="462 1523 845 1769"> <p><b>Dictated &amp; Corrected</b>  <b>K.K.Pathak</b> <b>Additional Member</b> <b>Board of Revenue, Bihar.</b></p> </div> <div data-bbox="893 1388 1308 1702"> <p> <b>(K.K.Pathak)</b> <b>Additional Member</b> <b>Board of Revenue, Bihar.</b></p> </div> </div>	