

आदेश की क्रम सं० और तारीख 1	1 आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
23.12.2016	<p style="text-align: center;"><u>BOARD OF REVENUE, BIHAR, PATNA.</u></p> <p style="text-align: center;">Revision (Land Ceiling Pre-emption) Case No.- 235/2001 Dist.- Begusarai</p> <p>PRESENT :- K.K. Pathak, I.A.S., Additional Member</p> <p>=====</p> <p>Arvind Kumar Singh and Others - Petitioner/ Appellant Versus Gauri Shankar Chaurasia & Others - Opposite party =====</p> <p><u>Appearance:</u> For the Appellant/Revisionist : Shri Lokesh For the OP : Shri Binod Kumar</p> <p style="text-align: center;"><u>ORDER</u></p> <p>This is the Pre-emption case filed on 28.11.2001 against the order of the Learned Collector, Begusarai on 17.08.2001. The Case was heard on the point of limitation and it was dismissed on 05.07.2002 as time barred. The Petitioner who is the Pre-emptor also approached the Hon'ble High Court in CWJC No. 8888/2002 wherein the Hon'ble High Court on 30.06.2009 set aside the order of the Additional Member and remitted the matter back to the Board of Revenue to be decided on merits.</p> <p>After few dates the case was dismissed for default on 10.11.2010. Thereafter, a Restoration Petitioner was filed but since then case could not be heard for many dates.</p>	

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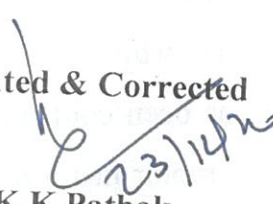

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	<p>Finally, the case was taken up on 21.12.2016. The case was restored and heard on merits. The Learned Advocate of the Revisionist who is also the Pre-emptor wanted to file written notes of argument which was allowed. He filed a written note of argument today.</p> <p>As per the Learned Advocate, the disputed land is 2 katha and 10 dhur. OP No 4 , 5 and 6 who are the sons of Late Daso Sah sold this land to OP No 7 and others who are sons of Late Kesho Sah. He further mentioned that Daso Sah and Kesho Sah are not related to each other. Neither the Revisionist is related to any of the OPs. Therefore this is an admitted fact by the Revisionist that he is not a Co-Sharer but only an adjacent raiyat. He further claims that even the vendee is not the adjacent raiyat of the vendor.</p> <p>He further says that the land was registered on 05.08.1992 and he filed a Pre-emption case before the Court of the Learned DCLR on 16.10.1992. The Learned DCLR however rejected his Pre-emption case vide order dated 22.11.1995. Aggrieved at this order, the Revisionist approached the Court of the Learned Collector who too by an order dated 17.08.2001 rejected the Pre-emption appeal. Hence aggrieved, he has filed this Revision Petition.</p> <p>I also perused the written note of argument submitted by the Revisionist. He mentioned that the land is an agricultural land and the Revisionist has made a <i>Butan</i> for animals. He also claims that the said land transfer is false and fabricated. He also denied that the report of the Circle Officer that the land is for residential purposes.</p>	

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	<p>However, he has not refuted that fact that agriculture is happening in the disputed land where he himself admitted that the land has <i>Khunta and Naad</i>. Neither has denied that fact that he owns a house adjacent to the disputed plot.</p> <p>From the perusal of the material available on record as well as the order passed by the Learned Lower Courts, it appears that the land in dispute is used for residential purpose and not for agriculture purposes. The fact that the land involved is so small in area bears testimony to the fact that the purported use of the land is residential. The Advocate Commissioner and Circle Officer, Sahibpur Kamal have confirmed that the surrounding area is being used for residential purposes. As per the report of these Officers, including the Advocate Commissioner, even the Pre-emptor has a house in the other part of the disputed Plot No 88. Some other witnesses, some of whom are witnesses for Revisionist, have confirmed that the area is being used for residential purposes.</p> <p>It also appears that the original Plot No. is 88 was originally a very big plot from which various persons purchased small amounts of land from that plot for the purpose of constructing houses which included the Pre-emptor as well. Therefore it has been confirmed beyond all reasonable doubt that the Pre-emptor has a house (Khapara Posh) adjacent to the disputed plot and perhaps wants to buy the land to enlarge his residential area.</p> <p>This whole dispute appears to be for the purposes of purchasing land for the residential purpose. To</p>	

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	<p>that end, taking recourse to Section 16(3) of the Bihar Land Ceiling Act, 1961 is not the right approach as the purpose of Section 16 (3) is to prevent fragmentation of agriculture holdings and the facility of Section 16 (3) is restricted to the 'raiyat' and not to any person. The word 'raiyat' has been defined under Section 2 (k) as a person who primarily has acquired a right to hold a piece of land for the <i>purpose of cultivating</i> it.</p> <p>Since none of the parties in the instant dispute can be called raiyat as they are buying or have bought the land around the area, including the disputed land, for residential purposes, I do not think that Section 16 (3) applies in this Case. This is not a case to be covered under Pre-emption Laws and hence the Learned DCLR and the Learned Collector rightly rejected the Pre-emption application of the Revisionist.</p> <p>Accordingly, I don't find any need to interfere with the order of the Learned Collector Begusarai or the Learned DCLR.</p> <p>Revision Dismissed.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;"> <p>Dictated & Corrected  K.K.Pathak Additional Member Board of Revenue, Bihar.</p> </div> <div style="text-align: center;"> <p> (K.K.Pathak) Additional Member Board of Revenue, Bihar.</p> </div> </div>	