

आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 1 2	आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख सहित 3
22.12.2016	<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.- 311/2002 Dist.- Purnea</p> <p>PRESENT :- K.K. Pathak, I.A.S., Additional Member</p> <p>=====</p> <p>Jadulal Sah and Others - Petitioner/ Appellant Versus The State of Bihar & Others- - Opposite party =====</p> <p><u>Appearance:</u> For the Appellant/Revisionist :Shri Gyanendra Kumar Singh For the OP : Shri Rana Pratap Singh</p> <p style="text-align: center;"><u>ORDER</u></p> <p>This is a Pre-emption Case filed on 09.12.2002 against the order passed by the Learned Additional Collector, Chapra in Case No. 30/1997 on 05.11.2002. In between, the case was dismissed for default on 21.05.2005 because of the continued absence of the Petitioner. Subsequently, a Restoration Petition was filed and the case was restored on 09.10.2006. After that the case was part heard on some dates. Finally, the matter was heard on 19.09.2014 where it was clarified that the parties must remain present.</p> <p>However, the Petitioner again absented themselves. The matter was finally heard on 21.12.2016 and this order is being passed.</p>	

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	<p>The Learned Advocate of the Petitioner who is the Pre-emptor also was heard in detail. As per him, he had filed a Pre-emption Application Case No. 96-97 before the Learned DCLR who dismissed his application on 03.09.1997. Thus aggrieved, the Revisionist filed an Appeal No. 30/1997 which too was dismissed by the Learned Additional Collector on 05.11.2000 and hence he has preferred this Revision.</p> <p>As per the Learned Advocate, the OP No. 2 and 3 purchased a piece of land measuring 2 katha and 8 dhur from one Sri Sachidanand Tiwari, who is not a party to this dispute. The land was purchased on 19.04.1996. Immediately after the purchase of land, the OP No. 2 and 3 gifted the land to OP No. 4 who is the daughter of OP No. 2.</p> <p>The Learned Advocate of the Revisionist further pleads that there are only two grounds on which the Lower Courts have dismissed his Pre-emption case. Firstly, both the Courts have held that the land in dispute is a gifted land and as per the various court rulings, Pre-emption laws do not apply to land which are gifted away. Secondly, the Lower Courts have upheld the contention of the OPs that they have purchased the land for the residential purposes. The Learned Advocate pleads that Pre-emption applies to gift deed as well and filed a Supreme Court order in support of his contention. He further argued that the land is agricultural and not residential.</p> <p>I have perused the written statement filed by the OPs No. 2, 3 and 4 and have also perused the other material</p>	

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	<p>available on the record. I have also gone through the Lower Court records in detail.</p> <p>I find that the Learned DCLR has followed correct procedure by including the daughter of the OP also as a party which fact was resisted by the OP. The OP was claiming that this land has been gifted for the marriage of his daughter. However, the Learned DCLR rightly included the daughter as a party. Upon hearing both the sides, he rejected the Pre-emption on the ground that the gift was genuine and the land is for the construction of house.</p> <p>I find that the area of the land is so small so as to render agriculture impossible within the area. It is an admitted fact that the Petitioner is claiming to be only an adjoining raiyat and not a Co-Sharer of the vendor of the disputed plot Sri Sachidanand Tiwari. The present area held by the Revisionist is also too small so as to render any agriculture.</p> <p>I also find that the contention of the Revisionist that the gift deal was executed on 09.07.1996 after the Pre-emption case was filed on 26.06.1996, is not tenable given the fact that the stamp paper was purchased for the gift deed on 03.06.1996 itself which is a date much before the filing of Pre-emption case before the Learned DCLR on 26.06.1996. Moreover, the Revisionist has failed to prove that such stamp paper was purchased on a back date illegally by the OPs. That be the case, I find the gift deed to be genuine and made for the purpose of gifting the land to the daughter of OP No. 2. The Supreme Court Judgement filed by the Learned Advocate of the Petitioner does not in any way</p>	



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और तारीख
1

आदेश और पदाधिकारी का हस्ताक्षर

2

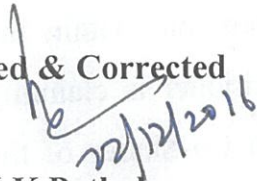
आदेश पर की गई
कार्रवाई के बारे में
टिप्पणी तारीख सहित
3

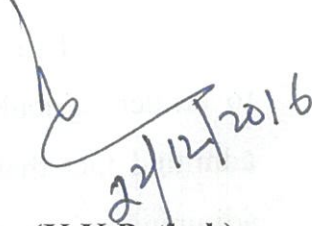
mentioned that the Pre-emption laws applied to gift deed. The Judgement in fact lays emphasis on the date of registration of the sale deed.

Given the above finding that the gift deed is genuine and more particularly, that this land use is purely for residential purposes, I do not find any need to interfere with the order of the Learned Additional Collector or the Learned DCLR.

Revision Dismissed.

Dictated & Corrected


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


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