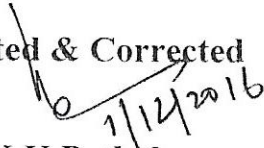



आदेश की क्रम सं० और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में लिखनी तारीख सहित 3
01.12.2016	<p style="text-align: center;"><u>BOARD OF REVENUE, BIHAR, PATNA.</u></p> <p style="text-align: center;">Revision (Land Ceiling Pre-emption) Case No.- 547/89.</p> <p style="text-align: center;">Dist.- Gopalganj</p> <p>PRESENT :- K.K. Pathak, I.A.S., ADDITIONAL MEMBER</p> <p>=====</p> <p>Sukhari Nonia & Ors. - Petitioner/ Appellant</p> <p style="text-align: center;">Versus</p> <p>Jainath Tiwary (Substituted by Fulena Devi) & Others- - Opposite party</p> <p>=====</p> <p><u>Appearance:</u></p> <p>For the Appellant :</p> <p>For the OP :</p> <p style="text-align: center;"><u>ORDER</u></p> <p>Heard the Learned Advocate of the Revisionist Sri Sukhari Nonia, Rajvanshi Nonia and Motichand Nonia. The Learned Advocate of the Opposite Party in this case Sri Jainath Tiwari and Others (Substituted by Smt. Phulena Devi) is absent.</p> <p>The Learned Advocate of the Revisionist pleads that the Lower Court Record of SDO court is not available and insists that the same may be called for. On perusal, it has been found that the Additional Collector's court record is available on record which contains the orders of Learned Sub Divisional Magistrate who is the original court. Hence this court doesn't feel the need to further insist on the record of the court of Learned SDM.</p> <p>The case has been lingering on since the year 1989. During the pendency of the case, the matter had been dismissed once as time barred, then subsequently revived after many years in 2009. Since then, numerous dates have been continuously given in the matter with no disposal.</p>	

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	<p>Today the case was heard at length and the Learned Advocate of the Petitioners (Revisionist) submitted a very strong defense in favour of Sri Sukhari Nonia and pleaded that the order of the Learned Additional Collector be set aside. The Learned Additional Collector vide his order dated 09.08.1989 had upheld the order of the Learned SDM, Gopalganj passed on 14.09.1981.</p> <p>The brief fact of the case is that there is a disputed land with khésra no-178 (khata no. 13). As per the najri naksha submitted by the Learned Advocate of the Petitioner, the Petitioner owns the plot no-179 which lies on eastern boundary of the disputed plot-178. Hence he is the adjoining raiyat and therefore the vendor Sri Kishundeo Tiwari has rightly vended the eastern portion of the disputed plot no-178 in favour of the petitioners.</p> <p>From the perusal of the records and from the genealogy available, it is clear that the original tenant Devraj Tiwari had two sons namely, Bishundeo Tiwary and Kishundeo Tiwary. Sri Kishundeo Tiwary is the vendor of the plot under dispute. His brother Bishundeo Tiwary had two sons namely, Trilokinath Tiwary and Jainath Tiwary. Sri Jainath Tiwary is the pre-emptor in the instant dispute. Thus the pre-emptor is co-sharer as well as adjacent raiyat to the vendor Sri Krishnadev Tiwari.</p> <p>It is an admitted fact that by both the parties that the pre-emptor Sri Jainath Tiwari is co-sharer of the vendor. Thus, Jainath Tiwary (now substituted by Smt. Fulena Devi) is both co-sharer and adjacent raiyat. Whereas the revisionist Sri Sukhari Nonia is only an adjacent raiyat to the eastern</p>	

आदेश की क्रम सं० और तारीख 1	आदेश और पदवीधारी का हस्ताक्षर 2	आदेश पर की गई कार्रवाई के बारे में टिपणी तारीख सहित 3
	<p>part of the disputed plot. Therefore the claim of the Opposite Party is stronger than that of the Revisionist.</p> <p>In that view of the matter, I uphold the order passed by the Learned Additional Collector who had upheld the orders passed by the SDM. As such, the said sale deed is declared null and void and the Revisionist is directed to transfer the land to the Opposite Party within one month.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <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>	