

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ																
13-04-2017	<p style="text-align: center;"><b>In The Court Of: Land Reforms Deputy Collector, Arwal.</b>  <b>[Bihar Land Ceiling U/S 16 (3)]</b>  <b>Case No. 02/ 2016-17</b>  <b>Gopal Narain Singh- applicant</b>  <b>Vrs.</b>  <b>Sri Raja Ram Singh-defendant</b>  <b>Present- Rakesh Kumar, DCLR</b>  <b>On behalf of applicant</b>  <u><b>Learned Advocate</b></u>  <b>1. Sri Shailesh sharma.</b>  <b>On behalf of defendant</b>  <u><b>Learned Advocate</b></u>  <b>1. Sri. Vinod kumar.</b>  <b>2. Sri. Sanjay kumar.</b></p> <p style="text-align: center;"><b><u>ORDER</u></b></p> <p>Both the parties appeared in the case. The present case is related to</p> <p style="text-align: center;"><b>Schedule-1</b></p> <table border="1" data-bbox="341 1218 1286 1509"> <thead> <tr> <th>Khata</th> <th>Plot</th> <th>Area A - D</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>11</td> <td>702</td> <td>0-08</td> <td>N-Lal Narain singh, Satyendra Sharma &amp; others. S- Gopal Narain singh. E-Sudarshan sharma. W- Beyas Devi</td> </tr> </tbody> </table> <p style="text-align: center;"><b>Schedule-2</b></p> <table border="1" data-bbox="341 1536 1286 1868"> <thead> <tr> <th>Khata</th> <th>Plot</th> <th>Area A - D</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>36 49</td> <td>703 403</td> <td>0-28</td> <td>N-Disputed land i.e. schedule-1 S- Krishna Nandan singh &amp; Anil Sharma. E-Rasta &amp; sudarshan Sharma. W- Krishna Nandan Sharma &amp; Anil Sharma.</td> </tr> </tbody> </table>	Khata	Plot	Area A - D	Boundary	11	702	0-08	N-Lal Narain singh, Satyendra Sharma & others. S- Gopal Narain singh. E-Sudarshan sharma. W- Beyas Devi	Khata	Plot	Area A - D	Boundary	36 49	703 403	0-28	N-Disputed land i.e. schedule-1 S- Krishna Nandan singh & Anil Sharma. E-Rasta & sudarshan Sharma. W- Krishna Nandan Sharma & Anil Sharma.	
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## Schedule-3

Khata	Plot	Area A-D	Boundary
11	702	0-08	-
11	688 689	0-2.5	

All the land mentioned in schedules are situated at Village+ post-Narhi, PS+Anchal-Kurtha, Dist-Arwal. .

The learned advocate of applicant submitted that land mentioned in schedule-01 was purchased by sri Raja Ram s/o Late shiv Ratan Ram (op-1) from sri Grish Nandan sahay s/o Late Pancha Nand sahay (op-2) which is agricultural land and it is classified in category of class-3rd plot. Learned advocate further submitted that applicant is adjoining raiyat of vendor of mentioned land and to prove it, he has given details of applicant's land in schedule-2. Learned advocate mentioned that sri Grish Nandan sahay has registered the land mentioned in schedule-1 on 1st day of July 2016 to op1, who is not a raiyat of adjoining land. Learned advocate informed that he has submitted copy of Treasury challan No-295907 dated 30.08.2016 to prove that he has deposited sum of Rs 75000=00 (Rs seventy Five Thousand only) i.e. equal to amount of purchase money together with a sum of Rs.7500 which is equal to 10% of principal money to the credit of collector under the Act of the area. So learned advocate pleads for pre-emption of land mentioned in schedule one, in favour of applicant. However, after the reply of op1, who has challenged the maintainability of the case the learned advocate of applicant said that op1 has already transferred the land to Premadhar Ram & he is brother of op1, so he

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should be made party in this case. Learned advocate of applicant pleaded that nature of disputed land doesn't change inspite of transfer of disputed land by opposite party first to 3rd person. He also alleged that op1 has sold the land to defeat the provisions of preemption. so he pleaded that after listioning all stake holders of disputed land, pre-emption of said land should be done in favour of applicant.

Learned advocate of opposite party submitted that case filed by applicant is not maintainable, as it is full of contradiction and is misrepresentation of facts & law. He said that applicant has wrongly mentioned the address of op1, actually he is resident of Arwal not of village Narhi as shown in plaint. Further, case suffers from non-joinder of parties as Raja Ram, the op1 has already sold the disputed land to Premadhar Ram on 01.09.2016 but applicant has not made party to present owner of the disputed land. Learned advocate emphatically said that case is not maintainable on account of non-compliance of Rule - 19 of Bihar Land Ceiling Act,1961. Learned advocate informed that Raj Ram (op1) has  $74\frac{1}{2}$  desimals of land in his name & in another 35 desimals of land, Raja Ram & Premadhar Ram, has equal share, it means altogether Raja Ram has total area of 92 desimals of land, so he comes under the category of landless person. Learned advocate said that sri Girish Nandan sahay s/o Late Prem chand sahay has sold the land to sri Raja Ram s/o Late Shiv Ratan Ram (op1) which is mentioned in schedule 03, and it is homested land. Learned advocate said that case has been filed in this

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court on 09.09.2016 and he alleged that learned advocate of applicant while signing on plaint, has back dated by mentioning it 31.08.2016 though signature of applicant has no date. Further, op1 has sold the disputed land to Premadhar Ram by taking consideration amount of Rs.2,20,000/- (Two Lakhs Twenty Thousand) only, so applicant should have filed the case against Premadhar Ram, by depositing this consideration amount plus 10 percent of said amount. Learned advocate informed that Premadhar Ram had taken portion of consideration amount in advance from his vendor and stamps for Registration was purchased by on 31.08.2016 & on that day documents for Registration was prepared and it was registered on next day. So he refuted the allegation of applicant that disputed land was registered to Premadhar Ram for defeating the purpose of Pre-emption. Learned advocate has also submitted written argument and said that Pre-emption U/S 16 (3) is a weak right and the pre-emptor can succeed by making it full proof case, transferee needs only to point out the loopholes. Further, in a transaction involving more than one plot the pre-emptor has to establish that he is co-sharer/adjoining raiyat of all plots- transferee need not be co-sharer or adjoining raiyat of all adjacent plot of land. (Pravesh singh vs Additional member, 1995(1) PLJR 764.) Learned advocate pointed out that in kewala of Girish Nandan sahay (op2) vs Raja Ram (op1), consideration amount shown is 1,45,000/- (one Lakh Forty Five Thousand) only which including Ten percent should be 1,59,500/- (one Lakh Fifty Nine Thousand) only but applicant has submitted challan of

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Rs 85,500/- only which is violation of law. Learned advocate emphatically said that a pre-emptor can not be allowed to have a partial pre-emption (Ramroop Yadav vs state of Bihar 1987.PLJR 455), as he claims to be raiyat of one plot though applicant has not submitted any documentary proof of being boundary person of disputed land. Learned advocate of defendant alleged that land shown in schedule-2, lacks proof that it is land applicant or of his lineage or it is joint family property. Learned advocate repeated earlier statement that applicant has not followed provisions of Rule 19 of Bihar land ceiling Act and it is very legitimate & genuine reason for rejecting pre-emption application (Siyawati Devi vs state of Bihar 2005 (3) PLJR 231). Learned advocate also quoted Rule-27 (2) of purchase Act by which pre-emption can not be allowed against landless person and quoted rulings given in Nathuni singh yadav vs state of Bihar 1997 (2) PLJR 287. Learned advocate finally pleaded that case has been frivolously filed and it is not maintainable as per law. So argued for dismissal of the case with exemplary & compensatory cost.

Heard the learned advocates of both the parties & perused the documents available on record. The applicant has submitted kewala of Girish Nandan sahay vs Raja Ram, Treasury challan in BTC Form-4 showing overall amount of Rs.82,500/- (Eighty Two Thousand Five Hundred) only, Two envelopes which contains letter attached with plaint, which was send through speed post to op1 & 02 by learned advocate of applicant, and said letter was not received by them, written argument has also been submitted by

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applicant. The opposite party (o1) has submitted written statement as well as written argument, kewala of Raja Ram vs Premadhar Ram and rulings of different honourable court in relation to Bihar Land Reforms (Fixation of ceiling area & Acquisition of surplus Land). The opposite party 01 has also submitted land possession certificate showing the land in name of Raja Ram & Premadhar Ram. However, sri Girish Nandan Sahay (op2) didn't turn up in court. After looking these documents it is found that registration of land in favour of defendant is mentioned in schedule-3 which involves three different plots in same khata but applicant wants pre-emption of land mentioned in schedule-1 which means he wants partial pre-emption. Further, applicant considers disputed plot to be agricultural, however, as per kewala other plots are Homestead and seems that all three plots are inter related, one part to be agricultural & other part homestead. It is also found that applicant's application for pre-emption has been accepted by this court on 09.09.2016 though Treasury challan has stamp of 30 August 2016 but applicant has transferred the disputed land to his brother, Raja Ram on 01.09.2016 and its consideration amount differs from earlier kewala as well as deposited money by applicant. Further, by looking land possession certificate of opposite party it seems that he comes under the category of land less person. The applicant has given details of his land in schedule-2 to show that he is boundary person but he has not given any documentary proof to certify that claim in relation to disputed land. so it can be said that applicant has filed

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the case which is related to partial pre-emption and against so called land less person. Further, applicant claims to be boundary person without documentary proof, further disputed plot may be agricultural but it can not be separated from other plots which is Homestead. The applicant has also ignored the fact that prior to filing of the case in this court, opposite party one, has already transferred the land to other person namely Premadhar Ram. So applicant's claim for making party to Premadhar Ram during the proceeding of the case, doesn't seem to be valid as applicant is bound to comply the provisions given in Rule-19. So over all, it can be said that applicant can not be given any relief and as per demand of opposite party, case does not seem to be maintainable in this court. So claim of applicant is rejected and case is dismissed.

Dictated and corrected ^

*Beal*  
13/04/17

Land Reforms Deputy Collector  
Arwal

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13/04/17

Land Reforms Deputy Collector  
Arwal.

