

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख साथ															
10-05-2018	<p style="text-align: center;">In The Court Of: Land Reforms Deputy Collector, Arwal. [Bihar Land Ceiling U/S 16 (3)] <u>Case No. 01/ 2016-17</u> Shree Niwas Sharma- Applicant. Vrs. Nawal Kishor Sharma & others – OP Present- Rakesh Kumar,DCLR <u>Learned Advocate of Appellant</u> 1. Sri. Radha Kant Sharma. 2. Sri. Arun Kumar. <u>Learned Advocate of Defendant.</u> 1. Sri. Anil Sharma.</p> <p style="text-align: center;"><u>ORDER</u></p> <p>Both the parties appeared at the time of hearing. The present case is related to</p> <p style="text-align: center;">Schedule</p> <table border="1" data-bbox="379 1055 1362 1525"> <thead> <tr> <th>Khata</th> <th>Plot</th> <th>Rakwa A-D</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>27</td> <td>1673</td> <td rowspan="2">0-64 (out of amalgated plot 1673 & 1672 total area 1.06 acres and from southern side)</td> <td>N-Niz Mokir.</td> </tr> <tr> <td>33</td> <td>1672</td> <td>S- Sheelwant Singh. E-Krishna Kumar Sharma. W-Shree Dhar Singh.</td> </tr> <tr> <td>21</td> <td>1657</td> <td>0-11</td> <td>N-Niz Mokir. S-Ram Rajeshwar Singh. E-Ramadhar Singh. W-Karha (pit)</td> </tr> </tbody> </table> <p>Mauza-Sohsa, P.S.-Mehamediya, Anchal-Kaler, Dist-Arwal. The learned advocate of applicant submitted that land mentioned in schedule was purchased by Nawal Kishor Sharma S/o Late Braj Nandan Sharma @ Brij Nandan Singh (op-01) and his vendor was Sudarshan Sharma S/o Late Sabhapati Singh (op-02) and Ajay</p>	Khata	Plot	Rakwa A-D	Boundary	27	1673	0-64 (out of amalgated plot 1673 & 1672 total area 1.06 acres and from southern side)	N-Niz Mokir.	33	1672	S- Sheelwant Singh. E-Krishna Kumar Sharma. W-Shree Dhar Singh.	21	1657	0-11	N-Niz Mokir. S-Ram Rajeshwar Singh. E-Ramadhar Singh. W-Karha (pit)	
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(Signature)

Kumar S/o Late Satyendra Sharma (op-03) has received registered deed of gift from op-01 and it was executed by the purchaser and transferred land is subject matter of pre-emption of application. Learned advocate quoted the observation in judgement order of Honourable Bihar Land Tribunal, Patna case No-736 of 2015 and said that petitioner had filed an application for pre-emption in court of DCLR, Arwal vide Land Ceiling case No-04/2010-2011 but then DCLR did not give him an opportunity even to implead the donee as a party nor he heard other issues related to pre-emption. So against this attitude of then DCLR Land Ceiling case No-04/2010-2011 was filed by petitioner before the collector, Arwal and it was dismissed by Additional Collector, Arwal affirming the order passed by then DCLR, on those issues only which had been the reason for dismissal of pre-emption application. Further, revisional court of divisional commissioner, dismissed the revision application, land ceiling case No-08/2015 filed by petitioner on point of limitation, with out deciding the merit of the case. So the Honourable chair person of BLT, Patna remanded this case to this DCLR Court, for hearing both the parties and deciding the pre-emption application. However, in reference to land mentioned in schedule, learned advocate alleged that in kewala of opposite parties, intentionally Northern boundary has been wrongly mentioned as in North Side is applicant and to prove it he has produced a certificate from Krishna Kumar Sharma, Sarpanch Gram Kutchhury

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Sohsa dated 29.09.2010 as well as LPC of disputed land. Learned advocate further submitted Geneological Table (GT) of the family and said that Jhalak Singh had three sons namely Sabhapati Singh F/o Sudarshan Sharma (op-02), Rampati Singh F/o Sri Niwas Sharma (Applicant) and Madhusudan Singh and stated that applicant and vendors, inspite of being from same lineage are not in good terms and mentioned the GT of op and said that Late Brij Nandan Sharma had two sons namely Nawal Kishor Sharma (op-01) and Satyendra Sharma F/o Ajay Kumar (op-03) and claimed that they have Joint residence & agricultural cultivation and as per established principle of Hindu Law, a co-parcener doesn't have power to dispose off any part of undivided co-parcenary property and if done, such transactions are void vide clause 256 of mulla's Hindu Law. Learned advocate further alleged that purchaser of disputed land namely Nawal Kishor Sharma (op-01) had gifted it to Ajay Kumar (op-03) to defeat the legitimate claims of petitioner as it was done after receiving the notice from court of DCLR, Arwal. Learned advocate also pointed out discrepancies related to stamp papers and alleged that deed of gift was back dated to be on 06.08.2010 and deed of gift was registered on 16.09.2010 and Land Ceiling case was filed on 31.08.2010. Learned advocate alleged that deed of gift is forged one as stamps used in it are not in serial and such gifts can not be allowed to be used for purpose of pre-emption. Learned advocate also informed that plot No-1657 mentioned in schedule

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was acquired by petitioner Sri Niwas Sharma, Sridhar Sharma & Sudarshan Sharma (op-02) through registered sale deed dated 25.07.1977 and other two plot are ancestral land of petitioner & op-02. Learned advocate argued in court that as per correct location, applicant is Northern boundary person, disputed land is Agricultural land and none of the parties are land less. Learned advocate also stated that op-01 was posted as superintending Engineer at Daltonganj (Jharkhand). There is nothing on record to show that due permission was taken by him under Govt Servant conduct Rules for entering into said transactions on relevant dates. Further, he has wrongly mentioned his occupation to be agricultural cultivation. Learned advocate also said that petitioner has submitted copy of challan No- M99861 dated 30.08.2010 which shows that he has deposited a sum of Rs. 2,33000/- and additional to 10% of principal amount, which is equal to Rs.2,56,300/- (Rs. Two Lakh Fifty Six Thousand Three Hundred) only and finally said that disputed land has been transferred to a non-co-sharer and non boundary person. So pleaded for pre-emption in favour of applicant.

Learned advocate of opposite parties submitted that pre-emption application is not maintainable as it doesn't comply with provision prescribed under form L.C. XIII of Bihar Ceiling Act. He said that petitioner is not adjacent raiyat of disputed land as petitioner op-02 and Shreedhar Sharma are full cousin brothers and after partition of their Joint family property, disputed

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land along with other properties came into share of op-02. Learned advocate claimed that disputed khata-27, plot No-1673, khata No-33, plot No-1672 & khata No-21, plot No-1657 comprises total area of 1.28 Acres and it is situated in two blocks of 1.06 Acres & 22 decimals and whole of these areas were allotted in partition to op-02, the vendor of op-01. So he refuted the claim of petitioner that land of these plots are also in his share property. Learned advocate said that op-02 was paying rent for these of lands and stated that he dose not have male issues, so petitioner has keen eyes on properties of op-02 and so he is harassing him by filing frivolous suit against him and in this connection informed that a Title suit No-57/2011 is proceeding in court of Sub-Judge-04 Arwal. Learned advocate claimed that after purchase of disputed land by Nawal Kishor Sharma (op-01) from Sudarshan Sharma (op-02), the remaining area of disputed khata & plot was purchased by Ajay Kumar (op-03) and later purchased area by Nawal Kishor Sharma was gifted to Ajay Kumar (op-03) prior to filing of Land Ceiling Case in DCLR Court. Learned advocate refuted the claim of petitioner that op-01 & op-03 are still in Joint family and finally argued that claim of applicant of being boundary person is false and pleaded for rejection of claim sought by applicant.

Heard the learned advocates and perused the documents available on record. Applicant has submitted copy of challan, kewala dated 17.07.2010, Bakshish kewala dated 16.09.2010 but Tahrir Tarikh is dated

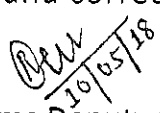
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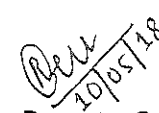
06.08.2010, kewala of Shiv Das Singh vrs Shree Niwas Sharma & others, revenue receipts and other documents where as opposite parties has submitted different kewalas, revenue receipts, Photo copy of T.S. No-57/2011 filed in court of Honourable Sub-Judge Arwal, Rulings of Honourable High Court (Ranchi Bench) in CWJC No-3091 of 1993 (R) 01.04.1998 Ram Kishun Sao vrs State of Bihar & others & written arguments. So after looking all these documents, it is found that disputed khata-27, plot-1673 and khata-33, plot-1672 are a joint area at spot and these two plots together comprises of 1.06 Acres and out of it an area of 64 desimals was purchased by Sri Nawal Kishor Sharma (op-01) and who later gifted to Ajay Kumar (op-03). So remaining area in Northen portion was 42 desimals which was later purchased by Ajay Kumar (op-03) from same vendor Sudarshan Sharma (op-02). However, applicant of this case has filed a Title Suit in Honourable civil court Arwal in regard to area of 42 desimals. Since the Northern portion which comprises of 42 desimals of land was claimed by applicant to be of his share so on that basis he was right to be claimant of being boundary person of land purchased by Nawal Sharma (op-01). However, now the Northern area of which applicant claims to be raiyat & co-sharer of vendor is itself in Title dispute which is proceeding in civil court Arwal, so until Title is decided by Honourable civil court, Arwal, applicant can not claim himself to be boundary person of disputed area of land mentioned in plaint of this

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court. However, applicant's allegation regarding back dated stamps obtained in "Bakshishnama" registration by op-01 & op-02 may be correct but this can not be resolved by this court. Further, op has tried his best to prove that agreement related to "Bakshinama" was done prior to filing of Land Ceiling Case in this court and Northern portion of disputed land was also purchased by Ajay Kumar (op-03) within prescribed prd of filing of case. So overall, it can be said that disputed land is agricultural and none of the parties comes under category of Landless. However, the basis of area of land on which applicant claims to be boundary person is itself presently in dispute in civil court. So this court can not grant any relief to applicant U/S 16 (3) Land Ceiling Act. So in this situation, pre-emption can not be allowed in favour of applicant. So claim of applicant is rejected and case is dismissed.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


Land Reforms Deputy Collector
Arwal.

