

**THE COURT OF DEPUTY COLLECTOR LAND REFORMS OFFICER**

**Land Ceiling Case No.28/2014-15**

**First Party :- Aminuddin, At-Mandhaniya, Ps-Lawalong, Dist-Chatra**

**V/s**

**Second Party :- Rajkumar Yadav & Oth, At-Mandhaniya, Ps-Lawalong, Chatra.**

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1. The present application has been instituted by the petitioner, Aminuddin Khan, son of Late Abdul Gaffer Khan, a resident of Village Mandhaniya, Police Station Lawalong, against the opposite parties, namely Raj Kumar Yadav and Piyush Yadav, both sons of Dullu Yadav, who have been arrayed as Opposite Party/Respondents No. 1 and 2, respectively, and Md. Zamiruddin Khan, son of Late Md. Jasimuddin Khan, who has been impleaded as Opposite Party/Respondent No. 3. As per the contents of the petition, all the respondents are residents of Village Mandhaniya, Lawalong block.
2. The instant application has been filed under section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act. It is the case of the petitioner that Respondents No. 1 and 2 have purchased the land in question, whereas Respondent No. 3 is the vendor of the said land. The subject matter of the dispute pertains to a parcel of land situated in village Sikri, under thana No. 49, within the jurisdiction of police station Lawalong. The disputed land is recorded under khata No. 6, plot No. 109, with a total area measuring 40 dismil, out of which 12 dismil is the area under dispute.
3. Both parties have duly submitted their plea/written statement along with supporting documentary evidence. The petitioner has placed on record notice in Form LC 13, treasury challan, Pleader's Notice, and the sale deed of the land in question to substantiate his claim. Conversely, the respondents have filed their written arguments, accompanied by supporting statements and a copy of the sale deed in their defense.
4. In their written arguments, the respondents have, in paragraph 6, raised objections regarding the accuracy of the land registration dates and the location of the land in question. However, upon perusal of the sale deed, it is conclusively established that the land was registered on 09/12/2013. Furthermore, in the notice issued by the first party in Form LC 13, the location of the village has been mentioned as Sikni, a fact that has been acknowledged and asserted by the respondents themselves in paragraph 6 of their written arguments.
5. Additionally, the respondents have questioned the authenticity of the treasury challan submitted by the petitioner in its written argument (paragraph 7). To verify the veracity of the challan, the Deputy Collector Land Reforms (DCLR), exercising powers vested under section 35 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, conducted a cross-verification. Pursuant to this verification, the The Treasury Office, Chatra, through its letter vide-56, dated 27/02/2025, has categorically confirmed that the challan

submitted by the petitioner is genuine and that the treasury has duly received the payment. Furthermore, upon scrutiny of the attached challan, it is observed that challan No. 653, Dated-27.01.2014 is clearly inscribed in the Middle, circled with red ink, thereby affirming its authenticity.

6. In paragraph 8 of their written arguments, the respondents have contended that the sale deed bearing number 5108, dated 09/12/2013, was in fact registered on 06/12/2013. Relying on this assertion, the respondents have further argued that, in accordance with section 6 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, the petitioner ought to have served notice upon them within a period of thirty days from the date of registration. However, as per their claim, the notice was served on 07/02/2014, i.e., after sixty days, thereby rendering the petition time-barred.
7. The said contention of the respondents is legally untenable, as it is based on an erroneous interpretation of section 6 of the Act. The rights of pre-emption are not governed by section 6, but are instead guided by section 16(3) of the Act and rule 19 of the Bihar Land Ceiling Rules, 1963. As per the express provisions of section 16(3)(i) of the Act, any co-sharer or adjoining raiyat is entitled to prefer an application for pre-emption before the collector within three months from the date of registration of the sale deed. In the instant case, the sale deed bearing number 5108, dated 09/12/2013, was registered on 09/12/2013, and the petitioner, in due compliance with the statutory provisions, filed an application before the Deputy Collector Land Reforms (DCLR) in Form LC-13 on 24/01/2014, which is well within the permissible time frame.
8. Furthermore, the petitioner sent notice/application/pleader's notice upon Respondents No. 1 and 2 on 08/02/2014 and has annexed proof of service through India Post receipt. However, it is observed that the petitioner did not issue notice to Respondent No. 3, who is the transferor of the disputed land. This omission constitutes partial non-compliance with rule 19(3) of the Bihar Land Ceiling Rules, 1963, which mandates that notice of the application be served to all concerned parties, including the transferor.
9. Notwithstanding the aforesaid lapse, it is pertinent to note that the DCLR court, on 27/05/2024, issued notice to all three respondents, ensuring that they were duly informed of the proceedings. A perusal of the order sheets clearly establishes that from July 2014 onwards, all parties have been present before the court and were fully aware of the case. Consequently, the primary issue that arises for determination is whether the petitioner's failure to serve notice upon the transferor at the initial stage vitiates the maintainability of the pre-emption claim.
10. In this regard, rule 19 of the Bihar Land Ceiling Rules, 1963, prescribes the procedural framework governing applications filed under section 16(3) of the Act. The petitioner, in compliance with the said rule, had issued notice in Form LC-13 to both the purchasers and the seller. However, while registered post was duly effected upon the purchasers (Respondents No. 1 and 2), the same was not done with respect to the seller (Respondent No. 3), thereby resulting in partial non-compliance with rule 19(3).

11. The Hon'ble Supreme Court, in *Hiralal Agrawal v. Rampadarth Singh, 1968 Pat LJR 68A* : (AIR 1969 SC 244), has clarified that the object of rule 19 is to enable the collector to ascertain the purchase price, terms and conditions of the sale, and the applicant's readiness to have the land re-conveyed on identical terms. The court categorically held that an application for pre-emption should not be dismissed on mere technical grounds of procedural non-compliance, as such an interpretation would defeat the very object and purpose of the statute. Their Lordships explicitly observed:

*"Surely these are directory instructions and if there is sufficient compliance thereof, the applications can be validly entertained by the Collector."*

12. A similar view was reiterated in *Mohd. Safique Ahmad v. State of Bihar, 1995 (1) PLJR 851*, wherein it was held that the provisions of rule 19 are merely directory and not mandatory in nature. The Hon'ble Court further enunciated that mere omission to comply with rule 19(3) does not, by itself, render a claim for pre-emption invalid.

13. In view of the aforesaid judicial pronouncements, it is evident that the failure to initially serve notice upon the transferor does not vitiate the maintainability of the pre-emption application, particularly when all parties were subsequently made aware of the proceedings, and no prejudice has been caused to the respondents. Accordingly, the petitioner's claim remains legally sustainable and merits consideration on its substantive merits.

14. Exercising powers conferred under Section 35 of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, a spot verification and Nazri Naksha report were requisitioned from the Circle Officer, Lawalong. In compliance, the Circle Officer submitted his report vide Letter No. 61, dated 18/02/2025, wherein the detailed description of the adjoining raiyats of the land in question was provided. As per the said report, the northern boundary of the disputed land, i.e., Plot No. 109, is contiguous to Plot No. 105 belonging to Leela Ganju, the southern boundary is adjacent to the remaining portion of Plot No. 109 owned by Dablu Yadav, the eastern boundary abuts Plot No. 110 belonging to Bighu Ganju, and the western boundary is adjacent to Plot No. 106 owned by Narsingh Yadav, Taleshawar Yadav, and Badhan Yadav.

15. The respondents, in their written arguments (Paragraphs 3 and 11), have contended that Badhan Yadav, one of the adjoining raiyats, is the great-grandfather of Respondents No. 1 and 2. The petitioner, in his application under Form LC-13, has asserted himself to be a co-sharer of the land in question and has claimed a right of pre-emption by virtue of such status. However, no documentary evidence has been adduced before the court to substantiate this claim. Furthermore, the report of the Circle Officer unequivocally states that the petitioner, Aminuddin Khan, is not a boundary raiyat of the land in question.

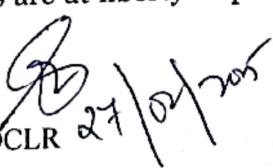
16. At this juncture, it is imperative to examine the settled legal position through relevant judicial pronouncements. In the case of *Mukhi Mali v. State of*

**Bihar, 1980 BRLJ 261: 1979 BLJ 83: 1979 BBCJ 151**, the Hon'ble Court held that an application for pre-emption can be preferred only by a person who is either a raiyat holding land adjoining the transferred land or a co-sharer. In the present case, the petitioner has failed to establish himself as either an adjoining raiyat or a co-sharer, thereby rendering his claim unsustainable.

17. Similarly, in **Smt. Satya Bhama Choudharain v. State of Bihar, 2006 (2) PLJR 592**, it was categorically held that under Section 16(3) of the Act, the entire onus lies upon the pre-emptor to prove his claim beyond all reasonable doubt. If a petitioner claims to be a co-sharer but fails to establish the same with cogent evidence, his claim cannot be sustained in law. Furthermore, in **Smt. Soma Pathak v. State of Bihar, 2007 (Supp.) PLJR 395**, the Hon'ble Court reiterated that the right of pre-emption is a special right, contingent upon the fulfilment of certain statutory conditions. The primary condition precedent for invoking the right of pre-emption is that the applicant must either be a co-sharer or an adjoining raiyat. Compliance with this condition is a *sine qua non* for the exercise of such a right. The Hon'ble Court further observed that the entire onus lies on the pre-emptor to establish this primary condition to satisfy in this regard. He cannot succeed merely on the ground of non-travers the pleadings or improper pleading of the vendee because vendee could only be called upon once the pre-emptor establishes his right to file such an application claiming such a right.

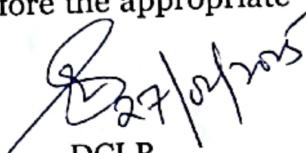
18. In light of the aforementioned judicial pronouncements and the categorical findings of the Circle Officer's report, it is evident that the petitioner has failed to establish his claim of being a co-sharer beyond reasonable doubt. Additionally, he has not been able to prove that he is an adjoining raiyat of the land in question. Hence, the court arrives at the considered conclusion that the mere filing of an application in Form LC-13, in partial compliance with Rule 19 of the Bihar Land Ceiling Rules, 1963, does not confer upon the petitioner an automatic right to pre-emption. It was incumbent upon the petitioner to substantiate his claim with cogent evidence. However, the petitioner has neither submitted any documentary proof nor furnished any corroborative oral or written arguments in support of his plea.

In view of the foregoing, the application of the petitioner stands rejected. The parties are at liberty to prefer an appeal against this order before the appropriate court.



DCLR 27/02/2025

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DCLR 27/02/2025

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