

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

**Land Ceiling Case No.27/2023-24**

**First Party :- Kali Devi, At-Atampur, Ps-Lawalong, Dist-Chatra**

**V/s**

**Second Party :- Kiran Devi & Others, At-Lamta, Ps-Lawalong, Chatra.**

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1. The instant case pertains to a petition filed under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as "the Act") by the petitioner, Smt. Kali Devi, asserting her right of pre-emption in respect of a portion of land situated in Village Atampur, Lawalong. The land in question forms part of Khata No. 19, Plot No. 424/461, having a total area of 0.50 acres, out of which the present dispute pertains to 0.331½ acres. The petitioner claims her right of pre-emption on the premise that she is an adjoining raiyat on the eastern and western boundaries of the subject land. The petition was instituted before the Land Reforms Deputy Collector, Simaria Court.
2. The petitioner has averred that the land in question was transferred by the sellers, Rahim Khan, son of Late Nanhe Khan, and Abdi Hussain, son of Shamir Khan (arrayed as Opposite Party Nos. 3 and 4, respectively), in favour of the purchasers, namely Smt. Kiran Kumari, wife of Shri Jhaman Prasad, and Smt. Rekha Devi, wife of Shri Dwarika Prasad (arrayed as Opposite Party Nos. 1 and 2, respectively). The petitioner contends that she, being an adjoining raiyat, has a statutory right of pre-emption, which has been invoked in strict compliance with the provisions of Section 16(3) of the Act. In furtherance of the same, the petitioner has deposited a sum of ₹4,00,000/- in the District Treasury vide Challan No. 105, dated 13.12.2023, along with an additional 10% amounting to ₹40,000/-, in adherence to the procedure prescribed under Rule 19 of the Bihar Land Ceiling Rules, 1963.
3. In support of her claim, the petitioner has produced documentary evidence, including the notice under rule 19 issued to respondents, registered sale deed, treasury challan, land revenue receipts, and judicial precedents favouring her contention. Furthermore, reliance has been placed on the report of the Circle Officer, Lawalong, wherein it has been explicitly recorded that the petitioner is an adjoining raiyat of the land under dispute. The petitioner has further contended, in Paragraph 10 of her written submission, that the respondents have deliberately and fraudulently misrepresented the nature of the land in the sale deed, characterising it as "Awashiya" (residential) rather than agricultural, with the malafide intention of defeating the pre-emption rights conferred under the Act.
4. Conversely, the respondents have raised objections regarding the maintainability of the petition on multiple grounds. The primary contention of the respondents is that the land in dispute is residential in nature, as categorically described in the registered Sale Deed No. 4558/2023. They assert that the statutory right of pre-emption under the Act is applicable solely to agricultural land and not to land designated for residential purposes. In support of their contention, they have placed reliance on the geographical surroundings of the disputed land, arguing that the northern boundary of Plot No. 424/461 is contiguous with

Plot No. 423, owned by one Ajay Ravidas, upon which a residential house has been constructed. Adjacent to the said house, the residence of one Taleshwari Devi and a poultry farm is also situated. Likewise, the eastern boundary of the disputed land is flanked by a private educational institution, Suryoday Vidya Niketan, thereby reinforcing the assertion that the nature of the land has undergone a transformation from agricultural to residential. The respondents have substantiated their claim by producing a judicial precedent in Pre-emption (Land Ceiling) Revision No. 358/2007, decided by the Court of the Commissioner, Saran Division, Chapra.

5. Additionally, the respondents have raised the plea that the petitioner has been in unauthorised and illegal physical possession of the adjoining land of the subject land and, therefore, cannot claim a preferential right to purchase the same. They have further argued, in Paragraph 4 of their written submission, that the adjoining land comprises forest land and government khas land (GM Khas), thereby negating the petitioner's claim of being a lawful adjoining raiyat. Moreover, the respondents have also contended, in Paragraph 11 of their written argument, that the petitioner has failed to comply with the mandatory requirements of Rule 19(3) of the Bihar Land Ceiling Rules, rendering her petition untenable in law. Second party has submitted sale deeds (2023/CHAT/4643/BK1/4558 and 2023/CHAT/4952/BK1/4861), RTI reply from Divisional Forest Officer, Chatra South office, encroachment case copy opened by forest department on petitioner.
6. Both parties have filed their respective written statements and submitted supporting documents, including sale deeds, land revenue receipts, and judicial precedents in favour of their respective claims. The matter hinges upon the determination of whether the land in question qualifies as agricultural within the meaning of the Act and whether the petitioner, as an adjoining raiyat, is entitled to the statutory right of pre-emption. The adjudication of the present dispute necessitates a detailed examination of the nature of the land, the intent behind its transfer, and the legal tenability of the parties' respective claims in light of the statutory framework and judicial precedents governing the field.
7. Upon meticulous perusal of the pleadings, arguments advanced by the parties, supporting documents, and official reports submitted before this Court, several pertinent issues arise for adjudication in order to arrive at a just and reasoned determination of the matter. The key issues requiring resolution include:
  1. Whether the procedure prescribed under Section 16(3) of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, read with Rule 19 of the Bihar Land Ceiling Rules, 1963, has been duly complied with, and to what extent such compliance is material for rendering justice in the instant case.
  2. The nature of the land in question and its legal classification, which bears directly upon the maintainability of the petition under the statutory scheme of the Act.
  3. The validity of the claims and counterclaims regarding the status of the petitioner as an adjoining raiyat in accordance with the statutory requirements set forth under the Act.



8. The land under dispute, bearing Plot No. 424/461, for which the pre-emption claim has been instituted is actually the land plot number 461 as reported by Circle Officer (CO) Lawalong vide 50, dated 06.02.2025 and stands registered under Sale Deed No. 2023/CHAT/4643/BK1/4558, dated 26.10.2023, in the office of the Sub-Registrar, Chatra. Subsequent to the said transaction, the petitioner duly filed an application before this Court on 26.12.2023, asserting her right of pre-emption. In furtherance of the statutory requirements, the petitioner has deposited the purchase amount in the District Treasury, along with an additional ten percent of the said amount, vide Challan No. 105, dated 13.12.2023.
9. Rule 19 of the Bihar Land Ceiling Rules, 1963, prescribes the manner in which an application under Section 16(3) of the Act must be filed. The petitioner, in compliance with the said rule, has issued notice in Form LC-13 to both the purchasers and the sellers, arrayed as respondents in the present case. However, it is observed that while the registered post has been duly effected upon the purchasers (Opposite Party Nos. 1 and 2), the same has not been done with respect to the sellers (Opposite Party Nos. 3 and 4), which *prima facie* indicates partial non-compliance with Rule 19.
10. The question that, therefore, emerges is whether such non-compliance vitiates the maintainability of the pre-emption claim. In this regard, reference is made to the pronouncement of the *Hon'ble Supreme Court in Hirralal Agrawal v. Rampadarth Singh, (1968 Pat LJR 68A) : (AIR 1969 SC 244)*, wherein their Lordships opined that the object of Rule 19, in mandating that an application under Section 16(3) be accompanied by a copy of the registered sale deed, is to enable the Collector to ascertain the purchase price, the terms and conditions of the sale, and the applicant's readiness to have the land reconveyed on identical terms and conditions. It was further held that an application for pre-emption ought not to be dismissed on the mere technical ground of non-compliance with Rule 19, as such an interpretation would defeat the very object and purpose of the statute. Their Lordships categorically observed: "*Surely these are directory instructions and if there is sufficient compliance thereof, the applications can be validly entertained by the Collector.*" A similar view has been 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. It was further enunciated that mere omission to comply with Rule 19(3) does not, by itself, render a claim for pre-emption invalid.
11. In light of the foregoing judicial precedents, it is evident that substantial compliance with Rule 19 is sufficient for the maintainability of an application under Section 16(3) of the Act. In the present case, the petitioner has filed the application within the statutory timeframe, appended a copy of the registered sale deed, served notice upon the purchasers, and submitted Form LC-13, along with Schedule I and Schedule II, detailing the land transferred and the adjoining land. Thus, the procedural lapse of not effecting registered notice upon the sellers, though a technical defect, does not constitute a fatal infirmity that would warrant outright dismissal of the petitioner's claim. The petitioner has, therefore, fulfilled the essential requirements under Section 16(3) of the Act, and the application is liable to be adjudicated on its merits rather than being rejected on technical grounds.
12. With respect to the nature of the land in question, Plot No. 424/461, in the sale deed bearing No. 2023/CHAT/4643/BK1/4558, dated 26.10.2023, categorically mentions the



land type as Aawashiya (residential). The petitioner, however, contends that the classification of the land as residential has been deliberately done to circumvent the application of the Act, whereas the actual nature of the land is agricultural. Conversely, the respondents rely on the classification in Sale Deed No. 2023/CHAT/4643/BK1/4558, dated 26.10.2023, as well as the presence of residential structures, including houses in adjacent plots and a school in the vicinity, to substantiate their claim that the land is homestead land rather than agricultural.

13. Upon scrutiny of the records, it is observed that the respondents themselves have annexed another sale deed No. 2023/CHAT/4952/BK1/4861, executed between Navin Prasad Sahu as purchaser and Aluniya Khatoon as seller. Notably, this sale deed also pertains to Khata No. 19, Plot No. 424/461. Interestingly, in the land details section of this sale deed (Page 2), the nature of the land is explicitly described as agricultural. Furthermore, in the declaration section (Page 6) of the same sale deed, the land is affirmed as being fit for agricultural use. This inconsistency between Sale Deed Nos. 4558 and 4861 having mention of the same land in subject (plot 424/461) claiming the land in subject to be residential and agricultural respectively raises serious doubts regarding the veracity of the respondents' claim that the land in question is residential, particularly as both sale deeds have been submitted by the respondents themselves.
14. Further, the continuous khatiyan (land record) submitted by the respondents also describes the nature of the land as Khairak Taand, which refers to land bearing trees of Khair, a species commonly found in agricultural and forested lands. In accordance with Section 35 of the Act, an information report was requisitioned from the Circle Officer (CO), Lawalong. The CO, in his report dated 27.01.2025 (Report No. 39), has categorically stated in Para 2(iii) that upon physical verification of the land in question (Khata No. 19, Plot No. 424/461), there exists no physical construction on the said land at present, and the land is being utilised for the cultivation of maize and pulses. The CO further observed that while there are a few residential structures, a poultry farm, and a private school in the vicinity, the immediate surrounding plots are largely under agricultural use.
15. The CO's report (Report No.-50, Dated-06.02.2025) after a thorough spot verification, corroborates that the land in question is agricultural land (Krishi Yogyा, fit for agriculture) however is fallow from last two seasons but seller of the aforesaid land in question has cultivated maize and pulses (arhar) on the same land. Furthermore, an assessment of the adjoining and surrounding plots further substantiates this conclusion. Specifically, Plot No. 462 is categorised as agricultural land (Krishi Yogyा) and currently contains mango trees; Plot No. 424 is agricultural and has a plantation of arhar (pulses); Plot No. 425 is similarly agricultural and under arhar cultivation; and Plot No. 422 is categorised as agricultural land (Krishi Yogyा) and had plantation of maize and pulses (urad) and after harvest is currently fallow.
16. Given that the neighbouring plots, including the land in question, predominantly exhibit agricultural characteristics, the mere mention of the term Aawashiya in Sale Deed No. 4558 does not ipso facto alter the intrinsic nature of the land.
17. The respondents' contention that Plot No. 423, located north of the land in question, contains the dwelling house of one Ajay Ravidas does not hold significant weight. As per the site map submitted by the CO, Lawalong, Plot No. 423 does not directly adjoin the



land in dispute. Even assuming that certain nearby plots contain dwelling houses, it is pertinent to note that these belong to raiyats engaged in self-cultivation of their own agricultural plots. The respondents have failed to highlight this crucial fact, which has been duly recorded in the CO's report.

18. Additionally, it is pertinent to note that the declaration section of Sale Deed No. 4558 itself acknowledges the absence of any physical construction on the land at the time of sale. The categorical mention in Sale Deed No. 4861 that the land is Krishi Yojna, coupled with the findings of the CO's report, firmly establishes the agricultural nature of the land, thereby bringing it within the purview of the Act.
19. Judicial precedent also supports this interpretation. In *Jai Bhagwan Singh v. State of Jharkhand* (2012), this Hon'ble Court emphasized the necessity for authorities to conduct an exhaustive inquiry into the current use of the land and determine whether it is genuinely agricultural or has been effectively converted to non-agricultural use. The exhaustive verification conducted by the CO in the present case aligns with this judicial mandate, and the findings therein unequivocally support the petitioner's claim.
20. Furthermore, in *Dinesh Prasad v. State of Jharkhand* (2020), the Hon'ble Jharkhand High Court held that temporarily non-agricultural land should not be excluded from ceiling area calculations if it retains its capability for agricultural use. The Court underscored that the potential for agricultural use must be taken into consideration rather than any temporary non-agricultural status. In light of this authoritative pronouncement, the mere classification of the land as Aawashiya in the sale deed cannot override its fundamental agricultural character, particularly when overwhelming documentary and factual evidence, including government records and official verification reports, establish the land's agricultural potential.
21. The foregoing findings unequivocally establish that the land in question falls within the ambit of land as defined under Section 2(f) of the Act, which encompasses land that is either being used or is capable of being used for agricultural or horticultural purposes. The inherent contradiction in the respondents' own documentary evidence, particularly the disparate classifications of the land in Sale Deed Nos. 4558 and 4861, further strengthens the petitioner's contention that the land retains its agricultural character, notwithstanding its purported sale for residential purposes. The inconsistency in the respondents' submissions casts doubt upon their assertion and tilts the evidentiary balance in favor of the petitioner.
22. In light of the foregoing analysis, it is manifest that the land in question, along with its adjoining and proximate plots, exhibits clear agricultural characteristics. The mere designation of the land as Aawashiya in Sale Deed No. 4558 does not ipso facto alter its intrinsic agricultural nature, particularly when weighed against the contradictory classification in Sale Deed No. 4861, the entries in the continuous khatiyan, the CO's report, and the settled legal precedents governing the issue. Accordingly, the land in question falls squarely within the statutory framework of the Act and remains subject to its regulatory provisions, thereby warranting due consideration under the applicable legal framework.
23. The third issue that requires determination pertains to the claims and counterclaims of the petitioner and the respondents regarding the petitioner's status as an adjoining raiyat. In



support of the petitioner's claim, two significant documents have been placed on record. Firstly, Sale Deed No. 4558 executed by the respondents themselves explicitly records the boundary raiyat as Kali Devi on the eastern and western sides of the land in question. Secondly, the report submitted by the Circle Officer, Lawalong vide-50, dated 06.02.2025, after physical verification, confirms the petitioner's status as the boundary raiyat of the subject land, identifying her ownership over Plot No. 422 (north side) and Plot No. 425 (west side). The cumulative effect of these records conclusively establishes the petitioner's claim of being an adjoining raiyat to the land in question.

24. A counter-allegation has been raised by the respondents regarding the alleged illegal possession of the petitioner over Plot Nos. 422 and 425, contending that such possession forms the basis of her claim as an adjoining raiyat. In defense of her possession, the petitioner has produced Sale Deed No. 4540, dated 08.09.2000, which records the purchase of Plot Nos. 422 and 425. Further supporting documents, including rent receipts issued by the CO, Lawalong, for the period spanning 2010-2022, along with a certified Register-II copy, have been furnished to establish her ownership and legal possession over the said plots.
25. The respondents, however, have challenged the authenticity of Sale Deed No. 4540, alleging that the sale was made for Gairmazarua Malik (GMK) land in an unlawful manner. It is well settled that adjudication of the validity or veracity of a registered sale deed falls beyond the jurisdiction of this Court and lies within the domain of a competent civil court. The respondents, instead of contesting the sale deed before a civil court, have raised these objections in the present proceedings, which are not the appropriate forum for such an inquiry. Hence, the challenge to the sale deed on these grounds is legally untenable.
26. The respondents have further contended that Plot No. 422 is classified as forest land and that the Forest Department has initiated proceedings for illegal encroachment before the Hon'ble Chief Judicial Magistrate (CJM), Chatra, under Complaint Case No. 909 of 2024. In support of this contention, the respondents have placed on record an RTI reply obtained from the Divisional Forest Officer (DFO), Chatra South, vide Letter No. 1835 dated 06.09.2024. The said RTI response explicitly states that Plot No. 422 is recorded as forest land. Additionally, reliance has been placed on the Bihar Gazette, 1958, Part II, Page 877, Serial No. 84, which mentions Atampur village and classifies Plot No. 422 as forest land.
27. This Court, in order to ascertain the nature of the land in question, sought a direct clarification from the office of the Divisional Forest Officer, Chatra South. In response, the DFO, Chatra South, confirmed that Plot No. 422 of Khata No. 52, situated in Village Alampur, is a notified and demarcated forest land under Notification No. C/P.F-10171/52-28-R. In light of this established information provided by the competent forest authority, the claim of the petitioner over Plot No. 422 cannot be accepted, as it stands notified as forest land under statutory records.
28. However, even if the respondents' claim regarding encroachment over Plot No. 422 is taken into consideration, such an assertion does not, in any manner, deprive the petitioner of her status as an adjoining raiyat. The petitioner's claim as an adjoining raiyat is not solely based on Plot No. 422 but is further reinforced by her ownership and possession over Plot No. 425, which lies to the west of the subject land. The petitioner has substantiated her legal ownership over Plot No. 425 through Sale Deed No. 4540, dated



08.09.2000, duly supported by rent receipts issued by the CO, Lawalong, for the years 2010-2022, and certified entries in Register-II.

29. Furthermore, judicial precedents have firmly established that the degree of adjacency of an adjoining raiyat cannot be scrutinised beyond the statutory mandate. In *Bibi Ambeya Khatoon v. State of Bihar, 2007 (Supp.) PLJR 314*, the Hon'ble Court categorically held that while granting pre-emption rights, the extent or proximity of land ownership cannot be questioned, as the law does not provide for such a restrictive interpretation. The statutory intent is to safeguard the rights of an adjoining raiyat based on recognised ownership and possession, rather than to impose arbitrary conditions regarding the exact configuration of landholdings.
30. In view of the foregoing, while the petitioner's claim over Plot No. 422 is legally untenable due to its classification as forest land, her status as an adjoining raiyat remains undisputed by virtue of her ownership over Plot No. 425. Consequently, the petitioner retains a legally enforceable right to pre-emption under the applicable statutory framework.
31. Upon a meticulous examination of the records, the arguments advanced by both parties, binding judicial precedents, the CO Lawalong reports (Report No.-50, Dated-06.02.2025 and Report No.-39, Dated-27.01.2025) sale deed documents, and corroborative revenue records, this Court has analyzed the three key issues raised in the present case and found that the petitioner has duly complied with the procedural requirements prescribed under Section 16(3) of the Act and Rule 19 of the Bihar Land Ceiling Rules. The procedural formalities, as interpreted in judicial pronouncements, have been substantially fulfilled, thus meeting the statutory conditions for the exercise of pre-emption rights. The evidence on record, including revenue records and the CO's report, has established that the land in question is agricultural in nature and falls within the purview of the Act as per the definition provided under Section 2(f). Mere mention of the land as Awasiyah (residential) in the sale deed does not alter its intrinsic agricultural character, particularly when documentary evidence and physical verification confirm its agricultural potential. The petitioner's claim as an adjoining raiyat has been substantiated through the registered sale deeds and the findings of the CO's official report, thereby affirming her right to pre-emption. The respondents' objections regarding encroachment or alleged irregularities in previous land transactions do not vitiate the petitioner's entitlement under the law.
32. In view of the foregoing findings and legal considerations, this Court holds that the petitioner has satisfied all the statutory requirements for the exercise of pre-emption rights under the Act. Consequently, the pre-emption petition stands allowed, and the petitioner is declared entitled to the transfer of the land in question on the terms and conditions specified in Sale Deed No. 4558. Accordingly, it is directed that the transferee-respondents (Respondent Nos. 1 and 2) shall execute and register a deed of transfer in favour of the petitioner within a period of forty (40) days from the date of this order. Failure to comply with this directive within the stipulated time shall render the respondents liable to legal consequences in accordance with the provisions of the Act.

Written and revised.

DCLR

Simaria

DCLR

Simaria