

भूमि सुधार उप समाहर्ता का न्यायालय, धालभूम जमशेदपुर।

कुंवर मुर्मू

भूमि वापसी वाद संख्या :- 02/2022-2023

—बनाम—

बिन्दो सोरेन

दिनांक

आवेदन

की गई कार्रवाई

13/1/2024

आवेदक कुंवर मुर्मू पिता—दुखु मुर्मू साठ— ग्राम—करनडीह, थाना—परसुडीह, अंचल—करनडीह, जिला— पूर्वी सिंहभूम, से अनुसूचित क्षेत्र विनियम 1989 के अंतर्गत भूमि वापसी के लिए प्राप्त आवेदन पर छोटानागपुर काश्तकारी अधिनियम की द्वारा 71(A) के अधीन इस वाद ग्राम—करनडीह, गान्ताईडीह, थाना—परसुडीह, अंचल—करनडीह, जिला— पूर्वी सिंहभूम को विपक्षी की कार्रवाई प्रारम्भ की गई। इस वाद में बिन्दो सोरेन, पिता—अमोमीन सोरेन, साठ—ग्राम—करनडीह, गान्ताईडीह, थाना—परसुडीह, अंचल—करनडीह, जिला— पूर्वी सिंहभूम को विपक्षी बनाया गया है। इस वाद की प्रश्नगत भूमि का विवरण निम्नवत है—

जमीन का विवरण

मौजा	थाना नं०	खाता सं०	प्लॉट नं०	रकवा
करनडीह	1166	94	260	0.06 ए०

उपरोक्त भूमि पर जावाबदावा प्रस्तुत करने हेतु उभय पक्षों को नोटिस निर्गत किया गया, जो अभिलेख में संलग्न है। वादग्रस्त भूमि का जी० अधिकारी अभिलेख में मूल रूप में संलग्न है। अंचल अधिकारी, जमशेदपुर के द्वारा अपने प्रतिवेदन में वाद की कार्रवाई प्रारम्भ करने की अनुशंसा की गई है। अंचल अधिकारी के प्रतिवेदन में यह उल्लेख है कि आवेदित भूमि मौजा—करनडीह, थाना नं०—1166, खाता सं०—94, प्लॉट नं०—260, रकवा— 0.06 ए० खायितानी रैयत मीरजा मांझी, पिता—चम्पाई मांझी एवं वास्ता मांझी, पिता—मदई मांझी के नाम से दर्ज है, जो आदिवासी खाते की भूमि है। विपक्षी बिन्दो सोरेन, पिता—अमोमीन सोरेन, साठ—ग्राम—करनडीह, गान्ताईडीह, थाना—परसुडीह, अंचल—करनडीह, जिला— पूर्वी सिंहभूम भूमि पर अवैध कब्जा में है। उक्त भूमि को विपक्षी के द्वारा लगभग वर्ष 20 से दखल कब्जा किया गया है। आवेदक अनुसूचित जनजाति के सदस्य है।

विपक्षी के मृत्यु के उपरांत उनके पत्नी श्रीमती सालो सोरेन एवं दो पुत्रों श्री मोहन सोरेन एवं रोहित सोरेन के विद्वान अधिवक्ता के द्वारा दिनांक—24.02.2023 को अपना कारण पृच्छा दाखिल किया गया है जो मूल रूप से अभिलेख में संलग्न है। विपक्षी के द्वारा दायर कारण पृच्छा में उल्लेख है कि —

1. That the applicant above named has filled the aforesaid case against the opposite party Binod Soren under section 71(A) C.N.T. Act for recovery of possession the schedule below land is not maintainable at all in its present form and relief claimed
2. That after the death of said Binod Soren the opposite party who left behind him the present opposite parties who are now contest the present case as substituted in place of said deceased Binod Soren being his heirs against the property left by deceased Binod Soren.
3. That the present case is barred by limitations Act.
4. That the present case is also barred by Specific Relief Act.
5. That the case is bad for Non-Joinder & Mis-Joinder of parties,
6. That the case is also barred by the provision of C.N.T. Act.
7. That the case is otherwise bad in law & fact.
8. That there is no cause of action against the opposite party for this case.
9. That the Applicant has no right to brought this case against the Opposite Party.
10. That the case has been mischievously brought by the Applicant against the Opposite Party with an ulterior motive to grab the valuable property of the Opposite Party.
11. That the answering Opposite Party deny and dispute all the averments made in this case save and expect which are specifically admitted hereinafter.
12. That the actual and real fact is that, Jhuman Majhi son of Chandra Majhi was purchased the land measuring as area 3 Katha of homestead land with Khapra pose house which is situated as Mouza-Karandih, Thana No-1166, within P.S.-

Parsudih, under Khata No.-94, within plot No.260, from its previous recorded owner Basta Soren (son of Late Madai Majhi) te grand father of the applicant through a registered Sale Deed, Registered at District Sub-Registry office at Jamshedpur vide Sale Deed No.-4168 dated 03/07/1974 by paid its consideration money to the seller Basta Soren by the purchaser Jhuman Majhi and sine then the opp. Parties are in continuous physical possession since and Jhuman Majhi the father in-law and grandfather of the present answering opp. Parties was alive to till now by paying the rent t the landlord of Jharkhand through the C.O. Jamshedpur and obtain Rent receipt of the same. And since the date of purchased said Jhuman Majhi the father in-law and grandfather of the present opposite parties is in peaceful possession over the same till their father in-law and grandfather and father was alive and after his death the opposite party Binod Soren being his natural born son and legal heir and successor inherited the same and is uninterrupted continuous physical possession till he was alive and after his death the aforesaid land and house been inherited by the present answering opp. Parties being the legal and successors of deceased Binod Soren.

13. That the applicant of this case has brought this case after laps of more then 48 years of transferred the aforesaid land and house by its recorded owner Basta Majhi the grandfather of the applicant in favor of Jhuman Majhi the father in-law and grandfather respectively of the present answering opp. Parties in this case, while Dukhu Majhi son of Late Basta Majhi the father of the applicant is alive and who has not any claim or demand anything from the answering opp. Parties at any time against the aforesaid land which was sold by said Basta Majhi the father of Dukhu Majhi and grandfather of the applicant.
14. That under the aforesaid facts and circumstances it is crystal that the applicant has not any right to brought the aforesaid case against the answering apposite parties as the opposite parties since grandfather and their father Binod Soren was alive is in continuous peaceful physical possession more-than about 48 years so the section 71(A) of C.N.T. Act 1908 itself is not maintainable/applicable hence the case should be dismissed at once for the ends of justice.
15. That said Bast Majhi the father of the applicant when sold the aforesaid land to Jhumna Majhi the father in-law and grandfather of the answering opposite parties and delivered physical possession on the date of Registration the Sale Deed where one of his son Madha Majhi the brother of said Dukhu Majhi the father of the applicant was identifier witness on said Sale Deed and since then the aforesaid property is in continuous physical possession of the answering opposite parties last more-than 48 years and the aforesaid land and house of Khapra pose openly to the knowledge of all of the people of locality without any interruption and thereby the answering opposite parties have acquired prefect right, title and interest and possession over the same.
16. That the claim of applicant is absolutely false and concocted to harass the opposite party and to create disturbance the peaceful life of the opposite parties only for his illegal gain and is the only motive to grab the said valuable property of the opposite parties and thus he brought this case against the opposite party therefore under the situation the case of the applicant should be dismissed.
17. That the claim of applicant is not correct and has not any genuineness with respect to the aforesaid Khapra pose household landed property which has sold by the grandfather of the applicant long before ago in the year of 1974 land who delivered the physical possession to the father in-law and grandfather of the opposite party and since then the opposite parties are in continuous physical possession over the same hence the present case should be dismissed.
18. That when there was no cause of action for this case nor there was any such occasion for the same by the father of the applicant therefore the applicant has no right to file this case against the answering opposite parties therefor the present case should be dismissed.

उभय पक्ष के विद्वान अधिवक्ता को सुनने, उनके द्वारा दावा के पक्ष में दाखिल कारण-पृच्छा एवं प्रत्यक्षता का गजातों तथा अंचल अधिकारी, जमशेदपुर के जौच प्रतिवेदन के अवलोकन से स्पष्ट होता है प्रश्नगत भूमि विपक्षी के पूर्व वंशज को निर्बंधित Sale Deed no. 4168 dated 03.07.1974 द्वारा प्राप्त किया गया है तथा नामांतरण कराकर online अद्यतन लगान वर्ष 2022-2023 तक भुगतान किया गया है। वाद में उभय पक्षकार अनुसूचित जनजाति के सदस्य भूमि पर विपक्षी का पक्षका/कच्चा मकान है इस प्रकार विपक्षी का वादग्रस्त भूमि पर दखल कब्जा एवं जमाबंदी कायम है। प्रथम पक्ष द्वारा न तो निर्बंधित केवला को रद्द कराया गया और न ही वादग्रस्त भूमि का नामांतरण को challenge/रद्द करने संबंधी कोई सङ्केत न्यायालय का न्यायादेश ही प्रस्तुत किया गया है। विपक्षी द्वारा समर्पित कारण पृच्छा एवं संलग्न दस्तावेज के अवलोकन करने से यह स्पष्ट होता है कि आवेदक के पूर्व वंशज द्वारा विपक्षी के पूर्व वंशज को वाद में निहित भूमि हस्तांतरण/बिक्री करने हेतु राशि का लेन-देन करने के पश्चात् विधिवत वादग्रस्त भूमि पर जमाबंदी कायम किया गया है। इस वाद में उभय पक्ष एक ही समुदाय अनुसूचित जनजाति के सदस्य है। छोटा नागपुर काश्तकारी अधिनियम के अंतर्गत यह भी व्यवस्था ही गई है कि यदि क्रेता-विक्रेता एक ही समुदाय के व्यक्ति हैं तथा जमीन बिक्री के लिए एग्रिमेन्ट/समझौता/दलील कर लिए हैं तो उस हालत में अधिनियम की धारा-46 का उल्लंघन नहीं माना जायेगा।

अतः उपरोक्त वर्णित तथ्यों के आलोक में आवेदन अस्वीकृत करते हुए वाद की कार्यवाही समाप्त की जाती है।

लेखापित एवं संशोधित

13/11/2024

उपायुक्त
(अधिनियम के अंतर्गत)

लेखापित

13/10/2024

उपायुक्त
(अधिनियम के अंतर्गत)