

आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर की गई
कार्रवाई के बारे में
टिप्पणी तारीख के
साथ

4/9/24

**In the Court of Divisional Commissioner,
Santhal Pargana Division, Dumka**

R.M(Obj.)A. No.385/2023-24

Murlidhar Khan and others


-Versus-

Kriti Khan and others

Order

The instant appeal has been filed against the order dated 23.11.2022 passed by the learned Settlement Officer, S.P, Dumka in his Objection Case No.972/2022, wherein and whereunder accepted the claim of the Respondent No.1 and directed to open the Khata in the name of the Respondent No.1 alongwith the appellants.

The brief fact of the appeal as presented is that in the last settlement Mouza-Banskanali No.28, S.C-Dighi, Sub-divisional-Dumka (S.P) J.B No.17 stands recorded in the name of Bandi Ram Khan exclusively, who died leaving behind his two sons namely Ram Krishna Khan and Bholanath Khan. Ram Krishna Khan had four sons namely Nityanand Khan, Niranjana Khan, Ganesh Khan and Dukh Haran Khan died leaving behind their heirs. Bholanath Khan died leaving behind his only son Sudhir Ch. Khan and he died leaving behind his two sons namely Manik Ch. Khan and Arun Khan, Respondent No.7 and 8 of this appeal. The appellants are the legal heirs and successor of Nityanand Khan and Niranjana Khan and Respondent No.1 is outsider. The lands were partitioned in between legal heirs on 29.04.1986 and by virtue of Registered Partition Deed No.1834 of 1986 at Sub-Registry Office, Dumka. As per above partition the lands allotted to Nityanand Khan and Niranjana Khan only and other J.B lands allotted to the heir of Bandi Ram Khan namely Ganesh Khan, Dukh Haran Khan S/o-Ram Krishna Khan and Sudhir Ch. Khan S/o-Bholanath Khan and since then all respective parties are in peaceful cultivating possession without any interruption uptill now. During present survey and settlement operation, the names of the appellants was recorded in purcha corresponding to J.B No.17. The Respondent No.1 filed an Objection Case No.972/2022 in the court of the Settlement Officer, S.P, Dumka for correction of Tasdik purcha, on the basis of Deed of Adoption No.358/1989 executed by Saruwala Khan@Dasi



in favour of the petitioner Kriti Khan. The learned Settlement Officer, Dumka wrongly and illegally allowed the petition vide order dated 23.11.2022. Being aggrieved at and dissatisfied with the order, this appeal is being filed.

The learned counsel of the appellants submitted that the learned lower court below did not consider the documents of the appellants wrongly and illegally allow the above case in favour of the petitioner/ Respondent No.1, who is outsider of the family of appellants. The learned lower court failed to understand the fact that Mouza-BasaKanali No.28, P.S-Dumka, Sub-division and District- Dumka of J.B No.17 of Mr. Gantzer settlement are exclusive and separate property of Bandi Ram Khan acquired by himself in own capacity. The lower court failed to understand the J.B No.17 is exclusively recorded in the name of Bandi Ram Khan therefore the entire order passed by the learned courts below are wrong, illegal and without jurisdiction. The learned court below failed to appreciate the fact that the Registered Partition Deed No.1834 of 1986 of Dumka Sub-Registry Office stands and without cancellation and declaration of null and void by the competent civil court, The learned court below has decided the title of the parties, which is wrong and illegal and without jurisdiction. The learned lower court below wrongly and illegally passed order in favour of the respondent on the basis of alleged adoption deed executed by Saruwala Dasi W/o-Late Amulya Khan, who is not a legal heir of L.S.R.T Bandi Ram Khan and passed an illegal and wrong order, which is liable to be dismissed. In the light of above submission prayed to allow the appeal.

The learned counsel of the respondents submitted and argued that Dinanath Khan had three sons, out of whom the respondents are descendants of third son Sabu Khan, other sons are Bandiram Khan and Indi Khan. Indi Khan died issueless. The respondent 1st party is in the family pedigree of the third son of Dinanath Khan adopted by Registered Deed of Adoption No.358 dated 15.03.1966. The appellants and respondents are in joint physical possession over the land in question on joint payment of rent to the authorities concerned. During the present settlement operation, new purcha prepared for last settlement J.B No.25 of Mouza-Naya Dumka, 19 of Mouza-Dudhani and 35 of Mouza-Guhiajori has been recorded in the joint names of the appellants and respondents only because there has been no partition between the parties. The counsel further submitted that a dispute had arisen for Settlement Jamabandi No.25 of Mouza- Naya Dumka No.7 and has filed a Title Partition Suit, which is subjudice before Civil Judge No.1 at Dumka and it is important to submit that present appellants have



filed a Title Suit No.166 of 2023 before the Settlement Officer, S.P, Dumka, which is subjudice. At one hand the appellants have filed a suit for declaration of the right, title and interest over the property and on the other hand has concealed this fact before this Hon'ble court. Under such circumstances the present appellants are barred from their claim before this court and in such facts and circumstances the appeal stands infructuous and fit to be dismissed. The respondent 1st party is the valid adopted son of Saruwala Mandalain@Dasi w/o- Amulya Khan and Respondent No.1 Kriti Khan has been adopted by a Registered Deed of Adoption No.358 dated 15.03.1966 and the aforesaid Adoption Deed has not been cancelled or annulled from any competent court and as such the respondent 1st party Kriti Khan is inside the family pedigree of the Gantzer's recorded tenant. During present settlement the new purchase of settlement J.B No.25, 26 of Mouza-Naya Dumka, J.B No.19, Mouza-Dhudani and 35 of Mouza-Guhajori has been prepared in the joint names of the appellants and respondents. The Respondent No.1 filed an Objection Case No.972 of 2022 for recording his name in present final purchase J.B No.13 (corresponding to J.B No.17) of Mouza-Basakanali within Dumka Mufassil P.S of District-Dumka. The learned Settlement Officer, Dumka after hearing both the parties vide an order dated 23.11.2022 held that since all this Jamabandis are joint family properties of the parties ordered to record the name of the respondent no.1 in new purchase of J.B No.13 (old 17) and as such it is justified and legal order. The appellants in Objection Case No.972 of 2022 specifically pleaded that the last settlement J.B No.17 was recorded in the name of Bandi Ram Khan and as such only the appellants have right to be recorded in new purchase of J.B No.13 (corresponding to J.B No.17) and Respondent No.1 alongwith other respondents protested the same and claimed all the five Jamabandis are joint family properties. The learned Settlement Officer, Dumka after through inquiry into the matter has rightly observed and held the Respondent No.1 to be recorded in the present settlement purchase of J.B No.13 (old 17) of Mouza-Basakanali within P.S-Dumka Mufassil District-Dumka. The order passed by the Settlement Officer, Dumka is just and legal weighting it on the parameters of legal yardsticks. In the light of above submissions prayed to dismiss the appeal.

Heard counsel of both the parties and perused entire documents available on record. I observed that the learned Settlement Officer, Dumka properly considering it on legal dimension of facts and law has passed a just and legal order. I find no merit in this appeal, therefore, the order dated

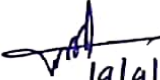


23.11.2022 passed by the learned Settlement Officer, S.P, Dumka in his
Objection Case No.972 of 2022 is upheld.

Hence, the appeal is dismissed.

Dictated and Corrected by me


Commissioner
Santhal Pargana Division,
Dumka


19/9/24
Commissioner
Santhal Pargana Division,
Dumka