

आदेश की क्रम  
की सं० और  
तारीख

आदेश और पदाधिकारी का हस्ताक्षर

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

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

**R.M.A No.74/2024-25**

Uday Kumar Bhagat

-Versus-

Tarun Mukharjee

**Order**

The instant appeal has been filed against the order dated 03.08.2018 passed by the Settlement Officer, Santal Pargana, Dumka in Objection Case No.1197/2016, wherein and whereunder directed to delete the name of appellant and to record the name of the respondent in New Khata No.35/11 of Mauza-Rampur Thana No.15, P.S-Dumka (M) District-Dumka. Before filing this appeal the appellant filed W.P.(C) No.497/2019 before the Hon'ble High Court, Jharkhand, Ranchi. The Hon'ble High Court, Jharkhand, Ranchi became pleased to allow the withdrawal of the writ petition with liberty to the petitioner to file appeal before statutory appellate authority and hence this appeal has been filed.

The brief fact of the case as submitted is that Gantzer's J.B No.11 of Mouza-Rampur Thana No.15, Anchal and P.S-Dumka (M) stood recorded in the name of Gouribala Devi w/o-Baidyanath Mukharjee. The recorded tenant Gouribala Devi made Kurfa settlement of entire holding with the great grandfather of the appellant, Late Sri Jagarnath Bhagat in year of 1935 and recorded tenant left Mouza-Rampur and shifted to Jamshedpur and permanently settled there. Jagarnath Bhagat came in exclusive possession of the land in question and constructed a Khaprakash Makan, a big tank for irrigation and planted many fruit trees and later on Khaprakash Makan was converted into a big Pacca building and thus perfected 'title' by adverse possession. During present survey and settlement operation, New J.B No.35/11 has been recorded in the name of Raghunandan Bhagat on the basis of 'title and physical possession'. The respondent is ranked outsider. Kashinath Mukharjee, father of the respondent has executed a declaration before Notary Public admitting the possession of the appellant since 1935 and has declared that any claim in future regarding land will be considered null and void. During present survey and settlement operation,



Raghunandan Bhagat, grandfather of appellant filed Misc. Case No.1431 of 2008 before the learned lower court for recording his name in the New Khata No.35/11. The learned A.S.O ordered to record the name of the appellant. After a lapse of 07 years, same Kashinath Mukharjee filed Objection Case numbered as 1197/2016 for deleting the name of New R.T Raghunandan Bhagat recorded in New Khata. The case was put up before A.S.O, the grandfather of the appellant, Raghunandan Bhagat was served notice and therefore show cause was filed. The A.S.O declined to pass any order and referred it to the Settlement Officer, Santal Pargana, Dumka. The learned Settlement Officer, Santal Pargana, Dumka vide order dated 03.08.2018 allowed the Objection Case No.1197/2016 and the C.O directed O.P to vacate the land in question and to deliver the possession of land in question. In the meantime N.R.T Raghunandan Bhagat died and his son Dinesh Kumar Bhagat challenged the impugned order before the Hon'ble High Court, Jharkhand, Ranchi and the Hon'ble High Court vide order dated 25.06.2024 became pleased to allow the writ petition as withdrawn giving the petitioner liberty to file appeal before statutory appellate authority and hence, this appeal has been filed.

The learned counsel of the appellant submitted that the appeal has been filed in pursuance of the order dated 25.06.2024 passed by Hon'ble High Court, Jharkhand, Ranchi in W.P(C) No.497/2019. That the last settlement J.B No.11 (new 35) stood recorded in the name of Gouribala Devi and the grandfather of the appellant filed Misc. Case No.1431 of 2008 for deletion of name of Gouribala Devi from the said New Khata No.35 and to record the name of the petitioner. The Settlement Officer, Santal Pargana, Dumka vide order dated 27.03.2009 was pleased to have allowed the case of the petitioner and the name of the petitioner was recorded in New J.B No.35 exclusively. The respondent filed this impugned Objection Case No.1197/2016 after a lapse of Seven years for the deleting the name of N.R.T, Raghunandan Bhagat and for recording his name therein. It was vehemently opposed by the appellant in the court of A.S.O and submitted entire facts about case and the A.S.O forwarded it to the court of Settlement Officer. The Settlement Officer without following the due procedure and without noticing and hearing the case whimsically allowed the Objection case.

The court of Settlement Officer, Santal Pargana, Dumka reversed the order dated 27.03.2009 in Misc. Case No.1431/2008. The order as such passed is barred by the principle of 'resjudicata'. The Settlement Officer, Santal Pargana, Dumka in Objection Case No.1197/2016 illegally amended his own order dated 27.03.2009 passed in Misc. Case No.1431/2008, which



is beyond Jurisdiction and procedure. The court has no jurisdiction of revision of his own order under provision of the Santhal Parganas Settlement Regulation, 1872. The Settlement Officer, Santal Pargana, Dumka has passed order in absence of the appellant without impleading the name of heirs and it is not just and proper on the principle of Natural Justice. The order passed by the Settlement Officer, Santal Pargana, Dumka is arbitrary and beyond Jurisdiction. In the light of the above submissions prayed to allow the appeal.

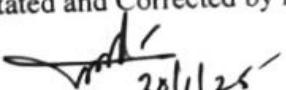
The learned counsel of the respondent submitted and argued that the appeal is not maintainable and it has been filed after a delay of Seven years of the order passed by the court of Settlement Officer, Santal Pargana, Dumka in Objection Case No.1197/2016. The real fact is that the J.B No.11 Mouza-Rampur No.15, S.C-Gando stands jointly recorded in the names of Gouribala Devi w/o Baidyanath Mukharjee, Nagendra Nath Mukharjee and Surendra Nath Mukharjee S/o Late Harinath Mukharjee. The appellant's submission is that the land was given to him by 'Kurfanama' is absolutely a false and imaginary story set up to grab the land of the respondent. The Settlement Officer, Santal Pargana, Dumka in his Misc.Case No.1431/2008 dated 27.03.2009 has passed the order on the basis of 'Kurfanama' by the deceased father of the respondent is beyond the fact, which lies on record and as such the Settlement Officer, Santal Pargana, Dumka has either misunderstood the fact or passed an order ignoring the fact by being Prejudiced. The learned counsel further submitted that during present survey and Settlement Operation, the father of respondent namely Kashinath Mukharjee filed an Objection case before the court of Settlement Officer, Santal Pargana, Dumka registered as 1197/2016, to delete the name of appellant from Column No. 4 of new J.B No.35/11 of Mouza-Rampur No.15. In the meantime, interveners namely Bhramar Choudhary S/o Late Prabir Choudhary and Anjana Choudhary D/o of Late Ajay Choudhary claimed themselves to be the real owner of the property and these interveners managed to mutate their name as the legal heirs of the recorded tenant, Gouribala Devi w/o Baidyanath Mukharjee as per order dated 30.03.1986 passed by the then Settlement Officer, Santal Pargana, Dumka in Fauti Case No.3/16 of 1986. The court of A.S.O and the Settlement Officer, Santal Pargana, Dumka both decided the matter in favour of Prabir Choudhary and others. Against the order, an appeal was filed bearing No.356/1987-88 as Rev. Misc. case in this predecessor's court and this court, vide order dated 21.08.1989, has set aside the order of both the courts below, holding that Kashinath Mukharjee and others are the legal heirs of Gouribala Devi. The learned counsel further submitted that a foul game was

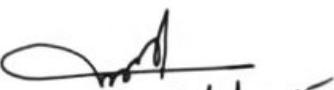


played on court to interpret the word "Jimmanama" as "Kurvanama". The Settlement Officer, Santal Pargana, Dumka in Objection Case No.1197/2016 dated 03.08.2018 has passed a just and legal order, which is reasonable being evaluated on the parameters of the fact and law involved. The appeal is not maintainable and that this predecessor's court has earlier observed the fact in an Appeal bearing No.290/2018-19 on dated 18.05.2022, that the respondent Tarun Mukharjee is the heir of Gouribala Devi. The order of the Settlement Officer, Santal Pargana, Dumka is just and reasonable and it has been passed on merit, after minutely going into the facts of the case. In the light of the above submissions prayed to dismiss the appeal.

Heard learned counsel of both the parties and perused entire documents available on record. I observed that the Settlement Officer, Santal Pargana, Dumka in his Objection Case No.-1197/2016 dated 03.08.2018 has passed the order after deeply going into the facts and opined the legal status of the appellant on the parameters of the fact and law. Therefore, I find no reason to interfere in the order because it has been passed in the just light of the dimension of the fact and hence this appeal is dismissed.

Dictated and Corrected by me

  
30/11/26  
Commissioner  
Santhal Pargana Division,  
Dumka

  
30/11/26  
Commissioner  
Santhal Pargana Division,  
Dumka