

In the Court of Additional Collector, Ranchi

SAR Appeal 111 R 15/06-07

Pushpa Ekka

Appellant

Versus

Rajkumar Kujur

Respondent

ORDER

25/19.03.2008 This appeal has been filed against the order dated 28.02.2004 passed by Sri A.K.Rao, Special Officer, Ranchi in SAR Case no 192/00-01 TR 230/03-04 by which the lower court decided to restore the following land in favour of the respondent.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Lalpur	16	210	8 Katha

The case of the appellant states that an agreement was executed by respondents father in favour of appellants father for sale of disputed land and possession was also delivered. It is narrated that the appellant made construction over the land and dug well, so the nature of land has been changed. It is added that the appellant approached several times for taking steps for obtaining permission u/s 46 of the CNT Act so that sale deed could be executed. A permission case no 22/83 was filed by him. But the father of the respondent passed away thwarting the entire process of transfer. Thereafter the appellant approached several times to the present respondent for compliance on behalf of his father and requested to take steps for obtaining permission. In this regard the respondent has received a sum of Rs 500/- which was acknowledged by him by granting a receipt for filing substitution petition in permission case. But he did not do the same. Recently a notice has been served by the Jharkhand High Court in WP(C) No 6601/2006 to file show cause for delivery of possession of the

disputed land. After receipt of notice, it came into the knowledge of the appellant that restoration order has been passed by special officer in SAR Case no 192/2000-01 on 28.2.2004. It is claimed that the land in dispute was acquired by the appellant through an agreement which is not a transfer, hence the provisions of section 71 A of the CNT Act is not applicable.

Heard learned counsel for both the parties. The learned counsel of the appellant expressed the same points as described in memo of appeal. The learned counsel claimed possession of the appellant since the date of agreement. The learned counsel for the respondent submitted that no agreement was presented in lower court. It is stated that the appellant is in possession since 1983. Therefore no period of limitation is applicable. Respondent's father Eric Kujur died in the year 1989. It is stated that no case under Specific Performance Act was filed by the appellant.

Going into the facts of the case, it is an admitted fact that the disputed land is tribal land. Eric Kujur (father of present respondent) had made an agreement in 1983 to sell 7 kathas of land in plot no. 210 to Mrs. Pushpa Ekka (present appellant). The former received an advance of Rs 2000 against the terms of agreement. In pursuance of the agreement, Eric Kujur filed a Permission Case No 22 of 1983 before the Rent Suit Deputy Collector. But order of permission could not be obtained and meanwhile Eric departed for heaven.

As things stand today, there is no permission to transfer the land. Nor was the transfer deed ever executed. Mere agreement of sale is no transfer and does not entitle anybody to hold the land. The prevailing provision of section 46 of the CNT Act requires permission of Deputy Commissioner which is not available with the appellant. Hence lack of proper permission enervates and

enfeebles the case of the first party. Nor the appellant has moved the competent court for registration of transfer deed under the Specific Relief Act.

In view of facts mentioned above, there is no reason to differ with the findings of the lower court. The appeal is dismissed with a direction to the Circle Officer, Ranchi Town to ensure compliance of the order of the lower court. Communicate the order to all concerned.

Dated :- 19.03.2008

Dictated & Corrected by

Sd./-

Additional Collector
Ranchi