

# In the Court of Additional Collector, Ranchi

## SAR Appeal 83 R-15/06-07

Guru Gobind Singh Educational Trust

Appellant

Versus

Ramavtar Sharma & others

Respondent

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### ORDER

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20.05.2008

This appeal has been filed against the order dated 28.04.2000 passed by Sri M M Roy Special Officer Ranchi in SAR Case no 45/99 whereby the lower court fixed compensation of Rs 60 Thousand only for the following land. After payment of the same by the respondent No. 1 to the respondent No. 2, the land in question was regularized in favour of respondent No.2.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Kamre	72	12	50 Decimal

The case of appellants states that the land in question is recorded in the name of Manda Pahan in RS Khatian. Jeetendra Munda and Sukra Munda sons of Chamba Munda , as the legal heirs of the recorded tenant, got permission u/s 49 of the CNT Act from Deputy Commissioner, Ranchi vide order dated 9.12.1963 in Misc. Case No. 17 R8 II /1963-64. Thereafter they transferred 1.66 acres of land in plot No. 12 and 15 decimal of land in plot No. 30, total area 1.81 acres under khata No. 72 village Kamre in favour of Sri Guru Gobind Singh Educational Trust, Ranchi vide registered deed no. 1265 dated 12.02.1964. The trust came into possession and got its name mutated in revenue records vide Case No. 47 R27/1981-82 and had been paying rent to the State of Bihar and now to State of Jharkhand. It is further stated that the land was purchased by the trust for the purpose of establishing a school. Recently on 30.10.2006 the respondent No. 1 Ramavtar claimed that he had acquired 50 decimals of land in plot no. 12 and tried to take forcible

possession over the land. When matter was enquired, he produced the photocopy of the order passed in SAR Case No. 45/1999. It is further mentioned by the appellant that the said order is wrong because no report was obtained from the concerned Circle Officer before fixing compensation. The land in dispute was transferred through permission u/s 49 of the CNT Act as such no application u/s 71 A is maintainable. It is also pleaded that the lower court failed to appreciate that in cases where transfer of the land have been made through order passed u/s 49 of the CNT Act, only state government is empowered to annul the transfer u/s 49(5) of the CNT Act within a period of 12 years. But in this case 40 years have expired and no application for restoration or annulment of such transfer was maintainable.

Heard learned counsel for both the parties. The appellants counsel submitted the same facts as stated in memo of appeal. The learned counsel of the respondent no. 1 argued that SAR Case No. 345/06-07 is pending in SAR Court which was filed by respondent no. 2 in respect of plot nos. 34, 12 and 30. It is claimed that the land was parti (uncultivated). The appellant was constructing boundary wall on the disputed plot and the SAR Court directed to stop the same but it was not obeyed by the appellant. As a result the respondent no. 2 filed WP(C) No. 3864/2007 where appellant appeared and stated that work will be stopped. The learned counsel narrated that Ramavtar Sharma sold all 50 decimals of land to different persons who have constructed houses over the same. BASA Agarbatti factory is still running on the disputed land and the appellant never constructed any school. The learned counsel has also filed written argument which is repetition of oral argument.

The learned counsel for the respondent no. 2 did not argue but filed written argument in which it is stated that a SAR Case No. 345/06-07 is filed by Budi Mundain which is still pending. It is stated that the present lower court case no. 345/06-07 is filed against the present appellant in respect of land under khata no. 72 plot no. 34 area 2.86 acres and plot no. 30 area 15

decimals. It is claimed that the land is agricultural in nature and no school was constructed by the appellants till date. The land is recorded as “Bakast Bhuinhari Pahnai” which is not vested in the State but the appellant got rent receipt from Kanke Anchal by way of fraud. It is further stated that respondent no. 1 acquired 50 decimal of land and sold to different persons. The purchasers has not made party in present appeal. It is claimed that in recent survey operations, the “Banda Parcha” has been prepared in the name of Bhadwa Munda (respondents husband).

Admittedly in the present case, transfer was made by Jitbahan Munda and Sukra Munda to Guru Gobind Singh Trust. Due permission was given by the Deputy Commissioner, Ranchi in permission case no. 17 R 8 II of 1963-64 for transferring 1.81 acres of land under Khata No. 72 and Plot No. 12( 1.66 acres), Plot No. 30( 15 decimals). The said transfer was never annulled by the State Government under sub section(5) of section 49 because no application was ever moved by the recorded tenant under the said section of the CNT Act.

In the year 2000, Bhadwa Munda s/o Jitwahan Munda filed a case against Ramavatar Sharma ( present respondent) in which the learned SAR Officer ordered on 28.4.2000 in terms of 2<sup>nd</sup> proviso of section 71 A of the CNT Act and directed the latter to pay a compensation of 60,000 to the petitioner ( Bhadwa ).

The learned SAR Officer stated in 3<sup>rd</sup> para of the order that the recorded tenants sold the land ( 50 decimals in Plot No. 12 ) to the father of Ramavtar Sharma who constructed house in 1951. The presiding officer concluded that the land was sold fifty years back and Ramavtar came in possession after the death of his father.

But the above mentioned finding is just contrary to the conclusion of the Deputy Commissioner Mr. S.C. Roy who accorded permission for transfer of the disputed land on 22.12.1963 under section 49 Of the CNT Act in case no. 17 R8II of 1963-64. Obviously the D.C., Ranchi could not have

sanctioned the transfer u/s 49 of the CNT Act when the land was in the hands of Ramavtar Sharma or his father Late R.L. Sharma.

The counsel for the respondent later filed a petition that no opportunity was given to her to adduce evidence and that appeal was being heard despite pendency of SAR Case No. 345/06-07. Regarding the first issue, the respondent (Budi Mundain) appeared on 2.5.2008 and sought time which was allowed. On 9.5.2008, again her counsel prayed for time which was again allowed. A third opportunity was given on 15.5.2008 to submit written argument which was complied with. Hence the complain is frivolous and superficial.

Coming to SAR Case No. 345/06-07, the said case is irrelevant because the present appeal was filed against the SAR Case No. 45/99 which was disposed on 28.4.2000.

Obviously Bhadwa Munda concealed the facts of transfer of the said land in 1963 to gain money from Ramavtar Sharma. Both of them conspired together and obtained a wrong order from the SAR Court in Case No. 45 of 1999 on 28.4.2000. Such an order is not sustainable in the eyes of law.

In the result, the order dated 28.4.2000 of lower court is quashed and the appeal is allowed.

Dated :- 20.05.2008

Dictated & Corrected by

Sd/-

Additional Collector,  
Ranchi.