

In the court of Additional Collector, Ranchi

SAR Appeal 94 R15/06-07

Kalika Prasad & others

Appellant

Versus

Sharda Prasad Dixit

Intervenor Appellant

Versus

Samuel Oraon & others

Respondent

ORDER

30

16-05-2008 This appeal is directed against the order dated 8-07-2006 passed by Sri Deonish Kiro, Special Officer, Ranchi in SAR Case No. 917/05-06 by which the lower court decided to restore the land described herein below to the respondent.

| <u>Village</u> | <u>Khata</u> | <u>Plot</u> | <u>Area</u> |
|----------------|--------------|-------------|--|
| Kokar | 181 | 1136 | 1 Katha- Appellant no. 1 1 Katha- Appellant no. 2 2 Katha- Appellant no. 3 2Katha-IntervenerAppellant |

The case of appellants states that after receiving notice from lower court, they appeared on 28.4.2006 and prayed for time to file show cause. The case was adjourned for 10.05.2006. On 7.7.2006 again time petition was filed by the appellants which was rejected by the lower court. Thereafter the appellant filed a petition on 11.7.2006 and prayed to recall the order dated 7.07.2006. In that petition, it was also stated that earlier a SAR Case No. 113/1996-97 was initiated against the appellants in respect of same land which was dismissed on 2.10.1997 by the then SAR Officer and that no appeal was filed against the said order. No order was passed on that petition and on 13.11.2006, final order was passed by

the lower court. It is alleged that the lower court did not mention the appellants petition dated 11.07.2006 and ignored the earlier order dated 2.10.1997 passed in SAR Case No. 113/96-97. It is added that the lower court had passed restoration order without giving the appellants to place their Case.

Heard learned counsel for all the parties. The learned counsel of the appellants and intervener appellant submitted the same points as stated in memo of appeal. The learned counsel asserted that the order was passed when the SAR Court has no jurisdiction.

The learned counsel of the respondent pleaded that the appellants did not file any paper in present court. Kali Toppo and Bhoja Oraon are not family member of the respondent hence resjudicata is not applicable. The learned counsel claimed that Municipal Holding is running in the name of the respondent.

Going into the case of the appellants and the intervener, it appears that they have placed more reliance on Technical points. It has been said that the lower court has ignored the basic principles of law by not giving them proper opportunity. Their learned counsels have pleaded that the SAR Court has passed order without following prescribed procedure. The learned counsel for the appellant argued that the SAR Case in lower court was hit by "Res Judicata" but neither the Case No. of the previous record nor the certified copy has been submitted to authenticate the same.

More important the appellant or the intervener has not mentioned about the instrument through which they acquired ownership and possession. Not a single document has been produced in the court to give strength to their claim that injustice was done against them because they could not give papers in lower court.

In the view of the aforesaid facts, it appears that the claims of both the appellants and interveners are frivolous and superficial. They do not possess any documentary evidences to prove the lower court wrong.

Hence it is concluded that there is no legal infirmity in the order of the lower court and the same does not need any intervention. Appeal is dismissed with a direction to the Circle Officer, Ranchi Town to ensure Delivery of Possession within 30 days. A copy of the order may also be sent to the SAR Court, Ranchi.

Dated :- 16.05.2008

Dictated & Corrected by

Sd./-

Additional Collector,
Ranchi.