

In the Court of Additional Collector Ranchi

SAR Appeal 99 R-15(06-07)

Karma Munda -----Appellant

versus

Harihar Singh Munda others-----Respondent

ORDER

19
30-11-2007

This appeal has been filed against the order dated 28.11.06 passed by shri. D. Kiro special SAR officer Ranchi in SAR case no.31/06-07 whereby the lower court restored the following land in favour of the respondents.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Kokar	236	686	75Decimal

The case of appellant states that the land in question is recorded as Bhuinhari under Khewat No. 9/14. The recorded tenant registered a conditional sale deed on 17-5-1918 in favour of the ancestors of the respondent. The respondent filed restoration case in lower court on the basis of the said conditional deed. It is claimed that the lower court without giving any opportunity to the appellant to adduce any evidence, decided the case in favour of the respondent. It is added that the lower court has given much importance to the conditional sale deed. It is pleaded that the deed was conditional sale deed which revealed that land was mortgaged for 5 years. The conditional sale deed was illegal in view of terms u/s 48 and 49 CNT Act. The permission of DC was required which was not taken.

Heard learned counsel for both the parties. The learned counsel on behalf of the appellant narrated contentions as stated in memo of appeal.

The learned counsel for the respondent stated that the land in dispute is Bhuinhari land recorded under khewat No. 9/14 in the name of Somra Munda & others. Karma Munda s/o Satia Munda executed a mortgage deed in 1918 for 5 years in favour of Teku Munda. Mortgage was



never redeemed till 1935. In Revisional survey operation, Teku Munda was accepted as a raiyat for some rent in remarks Colum. Subsequently his successors remained in possession. In course of time the land was settled to non tribals. The learned counsel for dependant claimed adverse possession of 70-72 years.

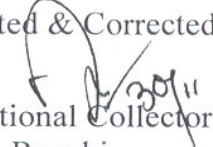
Coming for the facts of the case, R.S. Khata No. 236 is recorded as 'Bakast Bhuinhari Mahtoi' under khewat No. 9/16 which is combind property of khewat of 9/14 and 9/15. Khewat No. 9/14 is recorded in the name of Somra Munda, and Bukha Munda son of Barka Sukra Munda whereas khewat No. 9/15 is recorded in the name of Birsa Munda, Kandru Munda and Budhan Munda son of Karma Munda. Karma Munda (appellant) is grandson of recorded khewatdar Somra Munda.

The respondent claimed to have acquired land for a period of five years from Samvat 1975 to 1979 through registered conditional sale deed vide Deed No. 2028 dated 17-5-1918. It was maintained that the vendor Karam Munda had to redeem the land by paying the consideration money to the vendee but the same was not complied with. As a result, the land remanded with respondent.

It is apparent that respondent is not a descendant or successor of the recorded tenant and his claimed is based on the condition as sale deed of 1918. Such a transfer was illegal in view of the provisions of section 48 of the C.N.T. Act.

In such a situation Harihar Singh Munda had no right to file a case u/s 71 of the C.N.T. Act. As a result the order of restoration in his favour by the lower court cannot be sustained in the eyes of law. The order of the lower court is set aside and the appeal is allowed.

Date—30.11.2007

Dictated & Corrected

Additional Collector,
Ranchi.