In the Court of Additional Collector, Ranchi

SAR Appeal 22 R 15/07-08

Enamul Ansari & others

Appellant

Versus

Bhadwa Oraon

Respondent

<u>ORDER</u>

18/2.05.2008This appeal has been filed against the order dated 31.07.2007 passed
by Sri Deonish Kiro, Special SAR Officer, Ranchi in SAR Case no 17/07-08
by which the lower court decided to restore the following land in favour of the
respondent.

| Village | <u>Khata</u> | <u>Plot</u> | Area |
|-------------------|--------------|-------------|------------|
| Dandai Futkaltoli | 28 | 201 | 28 Decimal |

The case of the appellant states that the land in question belongs to the ancestors of the respondent who surrendered the same to the then landlord on 12.03.1952. The landlord settled the land in favour of the ancestors of appellant on 17.07.1952. It is claimed that since the date of settlement, the appellant held and possessed the land in dispute till date. It is stated that the name of ancestors of the appellant entered in the records of exlandlord. The name of appellant is also entered in governments revenue records. It is claimed that the appellant acquired occupancy right, title and interest over the land. It is added that the nature of the land has changed which is also mentioned in column 6 of the restoration petition. It is further pleaded that section 71 A of the CNT Act does not apply in the present case. House was constructed on the disputed land and the respondent don't want to take the land back. In lower court, PW 1& 2 admitted acceptance of money.

The respondent did not appear in this case in spite of service of notice, hence the case was heard ex-parte. The learned counsel for the appellant submitted the same points as stated in memo of appeal.

Coming to the facts of the case, it is an admitted fact that land belongs to a tribal. The ancestors of the respondents surrendered the land to the exlandlord on 12.3.1952. The latter settled the land in favour of predecessors of the appellants on 17.7.1952. The respondent Bhadwa Oraon has admitted in his petition dated 5.2.2007 that the appellants have constructed house over the disputed land. The respondent has deposed as PW 1 in the lower court that he has taken money from the appellant and wants to take more.

Taking 1952 as the year of land alienation, it is almost 56 years since the transfer took place. The period of limitation for filing such cases is 30 years. The Hon'ble Jharkhand High Court in a series of decisions has clearly held that an application for restoration cannot be filed in terms of section 71 A of the CNT Act upon the expiry of the said period of limitation.

For the reasons aforesaid, the appeal application is allowed and the order of the lower court dated 31.7.2007 is set aside. Copy of the order may be communicated to the SAR court and the Circle Officer concerned for information and necessary action.

Dated:- 2.05.2008

Dictated & Corrected by Sd./-Additional Collector, Ranchi.