

In the Court of Additional Collector, Ranchi

SAR Appeal 30 R-15/07-08

Shailendra Singh

Appellant

Versus

Khudia Oraon

Respondent

ORDER

10
21.01.2008

This appeal has been filed against the order dated 24.07.2007 passed by Sri Deonish Kiro, Special Officer, Ranchi in SAR Case no. 77/02-03 TR 305/03-04 by which the lower court decided to restore the following land in favour of the respondent.

Village	Khata	Plot	Area
Gari	136	589	15 Decimal

The case of appellant states that admittedly the land in dispute is recorded in the name of Sanicharwa Oraon s/o Budhwa Oraon and Sukra Oraon s/o Bijla Oraon. The heirs of recorded tenants sold the land in to Jatru Oraon s/o late Sukra Oraon after obtaining permission u/s 46 C N T Act through case no 507/87. In the page no 4 of the sale deed it is clearly stated that "it will be kept open for road and acceptable to all ,,. The appellants and other residents of the locality are using the disputed land only as road. Purchaser Jatru Oraon did not object for use of the land as common road. The land is not an agricultural land but it is used for road. There is no provision in CNT Act for restoration of common road.

The learned counsel for the appellant argued the same points as raised in memo of appeal.

Both the parties has filed written argument. The written argument of the appellant is repetition of points raised in memo of appeal. It is again asserted that dispute of road cannot be decided u/s 71 A of the CNT Act. It is added that RRDA had also passed map for road and the same was constructed from the MLA fund.

In the written argument of the respondent, it is answered that the land in question is recorded in the name of Sanicharwa Oraon s/o late Budhuwa Oraon and Sukra Oraon s/o late Bijla Oraon. Sanicharwa died leaving



behind three sons Sadho, Khudia and Dhodho however Sukra died issueless. After the death of Sukra, the sons of Sanicharwa Oraon came into possession of entire land of khata no 136. The appellants forcibly dispossessed the respondent. It is false to say that the disputed portion of land is used for road. Jatru Oraon never executed any deed to the appellants. The appellants are not members of scheduled tribe but forcibly dispossessed the respondent. It is asserted that the order of lower court is proper and justified.

Perusing the present case, it is clear that Birsa Oraon, Ropna Oraon and Sanicharwa Oraon s/o Khudia Oraon transferred the land in question to Jatru Oraon s/o Sukra Oraon. Before transferring the land, the vendors got permission on 16.03.1988 of the competent authority through case no. M 507 of 1986-87.

But in the lower court, Khudia Oraon, Sadho Oraon, Bishwa Oraon and Somra Oraon s/o Birsa Oraon filed restoration petition on 3.12.2002 for the restoration of land. The petitioners were the sons of one of the vendors- Birsa Oraon who sold the land to Jatru after permission.

A scrutiny of the legal provisions shows that the restoration petition was not maintainable under section 71-A because the transfer was legal in accordance with the provisions of section 46 of the CNT Act. The petitioners had no *locus standi* because the land was transferred to Jatru who had no grievance at all.

In the result the appeal is allowed and the order of the lower court dated 24.07.2007 is set aside. Communicate the order to all concerned officers for follow of action.

Dated :- 21.01.2008

Dictated & Corrected by


Additional Collector
Ranchi