

In the Court of Additional Collector, Ranchi
S A R APPEAL 35 R-15/07-08

Bandhan Oraon

Appellant

Versus

Sohrai Gari

Respondent

ORDER

11
28.12.2007

This appeal has been filed against the order dated 5.9.2007 passed by Sri Deonish Kiro, Special Officer, Ranchi in SAR Case no 3/01-02 TR 194/03-04 by which the lower court decided to restore the following land in favour of the respondent.

Village	Khata	Plot	Area
Hindpiri	95	869	40 Decimal

The case of appellant states that the land in dispute is recorded in the name of Lachhu Oraon, Chunda Oraon, Bandi Oraon and Bandhan Oraon sons of Etwa Oraon. The recorded tenants amicably partitioned the lands of khata no 95. The R.S. plot no 869 area 40 decimal was allotted to Bandhana Oraon who came into possession and constructed residential house over the land. Bandhana Oraon and his wife Chandwa Orain had only five daughters namely Bandhani, Champu, Sugia, Bhikhni and Dhanwa. Since Bandhana had no male issue, he was brought one Dewa Oraon as “Ghardamad“ who married his second daughter Champu Orain. Dewa Oraon and Champu Orain remained in possession of the disputed land and house after the death of Bandhana Oraon. The name of Champu Orain was recorded in demand and collection register of Ranchi Municipal Corporation. Dewa Oraon and Champu Orain died leaving behind three sons Bandhan, Jagarnath and Manuel Oraon and brought of a daughter Chandni Orain. Champu Orain partitioned the plot no 869 in her life time between her children's whose name was separately mutated and they are separately paying rent. It is claimed that lower court decided the case contrary to law and facts involved in the case. It is also alleged that no notice was served to the appellant.

In the course of hearing, Jagarnath Oraon and Manuel Oraon sons of Dewa Oraon has filed an application for becoming interveners in this appeal. Their petition is allowed and they were made interveners in this case. They stated in their petition that each one of them owned and possess 6 kathas 1 chatak land in disputed plot. It is further stated that the appellant was not owner of entire 40 decimal land. He was owner of only 6 katha 1 chatak of land. The respondent had full knowledge to those fact but he had impleaded only the appellant as respondent in lower court case. The interveners and appellant acquired the land by registered deed of partition dated 25.02.1987.

Heard learned counsel for all the parties. The learned counsel for the appellant submitted the story as described in memo of appeal.

The learned counsel of the respondent pleaded that there was no document to show that Dewa Oraon was "Gharjamai ". It is narrated that no document of partition has been produced. The learned counsel submitted that it is against tradition that Champu Orain, being daughter, inherited the property of Bandhana. The appellant deposed that his father died in 1988. He said in his deposition that cause of action arose when he started erecting boundary in 2001-02, hence there is no question of limitation.

The learned counsel for the interveners did not argue the case. It was directed that interveners should file written argument but the same was not complied.

Considering the arguments and documents available in both cases, it appears that the appellant has claimed the land on the basis of his mother, Champu Orain, being daughter of one of the recorded tenants Bandhana Oraon. The latter was said to have made Dewa his "Ghar-Jamai " and incidentally Dewa was married to Champu. All the interveners are brothers of the appellants and thus they also claim descentance in the same way.

The appellant's learned advocate argued that there was partition after the Revisional Survey between Lachchu Oraon and Bandhana Oraon. The disputed plot fell in the share of the latter. But no document was submitted in the court to

prove the partition story. In absence of documentary evidence, the partition story appears to be false and concocted.

It is well known that under Oraon Customary law, a daughter is not entitled to inherit property of her father. The custom lays down that if an Oraon owner of the property dies leaving behind neither a son nor any lineal male descendent, the property shall go to the father if alive; in his absence to the brother and sons of predeceased brother.

In the present case' there were four recorded tenants-(1) Lachchu (2) Chunda (3) Bandi (4) Bandhana. Chunda and Bandi died issueless. Lachchu had one son Somra and present respondent Sohrai is his son. Bandhana had no son. He had only one daughter Chamu to which the appellant and interveners are claiming maternal lineage.

All the facts stated above, leads to be conclusion that the appellants and interveners can get their remedy through a Title Suit in the Civil Court. The present court or the lower court cannot decide the matters of title.

In the result, the appeal application and the petition of the interveners are rejected. The lower court's order of restoration in favour of the respondent is upheld.

Communicate the order to all concerned and ensure restoration of land to the respondent through the C.O. Ranchi within a fortnight.

Dated :- 28.12.2007

Dictated & Corrected by

Sd/-

Additional Collector
Ranchi