

In the Court of Additional Collector, Ranchi
SAR Appeal 45 R 15/07-08

Pushpalata Singh

Appellant

versus

Sanicharwa Gari

Respondent

ORDER

9
15.2.2008

This appeal has been filed against the order dated 13.11.2006 passed by Sri Deonish Kiro, Special Officer, Ranchi in SAR Case no 98/04-05. The lower court concluded that the appellant has violated section 46 of the CNT Act. The dispute is related to the following land.

Village	Khata	Plot	Area
Pugru	96	250	0.27 acres

In the memo of appeal, it is stated that the appellant acquired the land by virtue of registered sale deed dated 24.05.1961 from Ramswaroop Singh. The vendor was in peaceful possession of the land since 1944 and when disturbance was caused by the father of the respondent he filed title suit no 364/1960 which was decreed in terms of compromise. The present respondent did not file restoration case in lower court but the same was referred by the Circle Officer, Namkum. After hearing, the lower court erroneously hold that the appellant has no claim over the land and he has violated section 46 of the CNT Act.

Heard learned counsel on behalf of both the parties. The learned counsel for the appellant stated that the disputed land was purchased by the appellant from Ramswaroop Singh through registered deed dated 24.5.1961. The vendor claims possession from 1944. There was a title suit no. 364/1960 between Ramswaroop Singh and Ram Oraon which ended in compromise. It is claimed that the name of appellant was mutated vide case no 382 R27/88-89. The learned counsel pleaded that law does not



permit for restoration beyond law of limitation. It is submitted that the lower court had not passed order of restoration, simply claim of appellant was rejected.

The learned counsel of the respondent argued that the present appeal is barred by limitation. Appeal is not maintainable. It is narrated that respondent did not file restoration case but the same was filed by the Circle Officer. It is pleaded that no restoration order was passed and review power lies with the lower court.

Considering all the documents and arguments of both the parties, it is apparent that Pushpa Devi purchased land from one Ramswaroop Singh by registered deed on 24.5.1961. The vendor of the appellant was in peaceful possession since 1944. In 1960, the father of the present respondent had objected, to the possession and filed a Title Suit No. 364/1960. Both the parties resolved the dispute and produced a compromise petition in the Title Suit which was accordingly decreed. Later pushpa Devi applied for mutation and got her name entered in the Tenants Ledger.

It is clear from the aforesaid facts that the law of limitation cannot apply in this case because the Title Suit No. 364/1960 was decreed on the basis of a collusive compromise. Such a decree cannot override the provisions of section 46 of the CNT Act. The transfer made in 1961 by registered deed is illegal.

In any case the lower court has not passed any order of restoration because the respondent is already in occupation of the disputed land. As a result the appeal petition is dismissed.

Dated:- 15.2.2008

Dictated & Corrected by


Additional Collector
Ranchi