

In the Court of Additional Collector, Ranchi

SAR Appeal 54 R 15/07-08

Laxman Pahan & others

Appellant

Versus

Lal Narayan Singh

Respondent

ORDER

16/28.06.2008

This appeal has been filed against the order dated 9.08.2007 passed by Sri Deonish Kiro, Special SAR Officer, Ranchi in SAR Case no 536/06-07 by which the lower court rejected the application u/s 71 A of the CNT Act filed by the appellant for restoration of following land

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Baragain	227	993	41 Decimal

The case of the appellant states that the land in question is recorded in the name of Lecha Pahan as Bakast Bhuinhari Pahnai in RS Khatian. The appellants father and husband Madan Pahan was filed SAR Case in lower court and he died on 19.03.2007 after filing the case. The present appellants had no knowledge or information about the SAR Case No. 536/06-07 while the appellants came to know about the case when it was fixed for final order on 9.8.2007. It is claimed that the appellants are legal heirs of the recorded tenant Lechu Pahan. It is pleaded that appellants were never substituted in lower court case and order was passed against dead person. It is added that the land in question is still vacant.

Heard the learned counsel for the appellant. The learned counsel again claimed that land is belongs to the appellant. It is stated that the respondent claims the land through permission u/s 49 of the CNT Act while he did not construct any structure within three years as per terms of the sale deed. The learned counsel prayed for remand of the case.

The learned counsel for the respondent did not argue but has filed written argument in which it is described that Balram Munda filed Permission Case No. 55 R 8II/1967-68 in which permission was granted to him vide order dated 3.6.1969 for transfer of the disputed land in favour of the present respondent for the purpose of construction of residential building. Thereafter Balram Munda transferred the land to the respondent through registered sale deed dated 3.12.1969 after getting endorsement of R S D C upon the deed. After purchasing the land, the respondent constructed a temporary house in the year 1972. He also got his name mutated in Ranchi Municipal Corporation on 4,5,1984 and paying taxes regularly. It is pleaded that in the present case, proceeding u/s 71 a of the CNT Act is not maintainable as the land in question was transferred by virtue of permission granted by the competent authority and the permission order has not been set aside or reversed u/s 49(5) of the CNT Act. It is also submitted that Bhuinhari Land can not be restored after lapse of 12 years from the date of transfer.

It is an admitted fact that permission was given by the D. C., Ranchi under section 49 of the CNT Act for construction of house vide Misc. Case No. 55 R8 II of 1967-68. Subsequently Balram Munda executed a registered sale deed to Lal Narayan Singh on 3.12.1969.

In view of the above mentioned fact, there is no contravention of the provisions of the CNT Act in transfer of land and case cannot be filed u/s 71 of the CNT Act. The appellant did not take recourse to sub section 5 of section 49 of CNT Act within 12 years of transfer for annulment on ground of fraud or misrepresentation of fact.

In the result appeal is disallowed.

Dated:-28.06.2008

Dictated & Corrected by

Sd./-

Additional Collector,
Ranchi.