

In the Court of Additional Collector, Ranchi

SAR Appeal 56 R15/07-08

Sunil Singh & others Appellant

Versus

Sadhu Oraon Respondent

SAR Appeal 57 R15/07-08

Kumkum Devi Appellant

Versus

Sadhu Oraon Respondent

ORDER

9
16.06.2008

These two appeal cases have been filed against the order dated 21.9.2007 passed by Sri Deonish Kiro Special Officer, Ranchi in SAR Case No.300 of 2005-06 by which the lower court decided to restore the following land to the respondent.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Madhukam	137	768	8 Katha

The case of appellant of Case No. 56 R15/07-08 stated that the land in question is recorded in the name of Kalia Oraon as Bakast Bhuinhari under Khewat No. 10/5. After the death of recorded tenant, Mangal Oraon inherited the Bhuinhari tenure. The respondent is son of Mangal Oraon. It is stated that the father of the respondent settled 3 decimal of land on 7.6.1945 to Hazari Singh who was grand father of the appellant no. 1. The said Mangal Oraon also settled 1.5 decimal to Mahabir Singh grand father of appellant no. 2 on 4.4.1945. In the same way, Mangal Oraon settled 1.5 decimal to the grand father of appellant no 3. It is further claimed that after settlement the ancestors of the appellants came into possession and constructed residential houses over the disputed land. It is pleaded that the

land was transferred more than 55 years back. Such the restoration case in lower court was barred by law of limitation. There is separate provision of restoration of Bhuinhari Land under section 48 of the CNT Act within 12 years.

The appellants of case no. 57 R15/07-08 stated in their memo of appeal that Mangal Oraon settled 2 katha of land in disputed plot on 7.6.1946 to Tikam Sahu who was brother in law of appellant no. 1. On 7.12.1946 the said Mangal Oraon settled 2.25 decimal of land to Ram Sharan Singh who was grad father in law of the appellant no. 2. It is claimed that the lower court case was barred by period of limitation as such the same was filed after 55 years. It is contended that the restoration case in respect of Bhuinhari Land can be filed only within 12 years from the date of dispossession.

Heard learned counsel for both the parties. The learned counsel of the appellants of both appeal cases argued the same points and facts as stated in memo of appeals. It is stated that the lower court passed order without argument. The learned counsel pleaded that in case no. 301 of 05-06 the lower court passed order for payment of compensation which was same nature as the present case. It is stated that the structures in disputed land was created before 1969.

The learned counsel of the respondent argued that the appellants were given much opportunity in lower court. The land is Bhuinhari and transfer was made without permission.

From the perusal of the order passed by the SAR Officer in Case No. 300 of 2005-06, it appears that the application for restoration of land was allowed by a speaking order on the ground that the land was Bhuinhari and the respondents (present appellants) claimed to have acquired land through sada hukumnama.

Admittedly in this case land was transferred in 1945 through hukumnama to the grandfather of Appellant No, 1. But no other evidence is available to prove the authenticity of the said hukumnama. The appellants have not submitted any copy of zamindari return, zamindari receipts and bujharat register to prove the correctness of hukumnama.

Two electricity bills were shown at the time of argument but they were of 2007 and 2008. No paper relating to the creation of holding in the Ranchi Municipal Corporation has been submitted to establish that a house was in existence since long.

For the reasons stated above, it is concluded that the appellants have forged and fabricated hukumnama to circumvent the provision of Section 48 of the CNT Act so that the period of limitation of 12 years comes into operation. There is no infirmity in the lower court and as such the appeals are dismissed. Send copies of the order to all concerned officers for information and consequent action,

Dated:- 16.06.2008

Dictated & Corrected by

Sd./-

Additional Collector,
Ranchi.