

In the Court of Additional Collector, Ranchi
SAR Appeal 09 R-15/07-08

Kamal Bhushan
Versus
Puran Munda

Appellant

Respondent

ORDER

13/
25.01.2008 This appeal has been filed against the order dated 21.11.2006 passed by Sri Deonish Kiro, Special Officer, Ranchi in SAR Case no 897/05-06 by which it is decided to restore the following land in favour of the respondent.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Kamre	57	967	1.02 Acre
		266	1.23 „
		954	0.21 „

The case of appellant states that the disputed land is recorded in the name of Baijnath Dayal Bharti as kayami. Sukhair munda surrendered the land to the landlord through registered deed no 3618 dated 16.12.1937. Thereafter the landlord settled the land in favour of one Randhir Sahay on 7.4.1938 whose name is entered in Jamindari Return. The present appellants has purchased the land on 7th July 2005 from the legal heirs of Randhir Sahay vide registered sale deed and got their name mutated in Government records. In the lower court case the present appellant was not made a party.

Notice was sent to the opposite party vide proceeding no133 dated 10.10. 07 but the same was not returned by the Anchal Officer, Kanke. The defendant appeared through R.C. Ghosh, advocate on 31.10.2007 and shifted to another advocate Mr. Pinku Kumar on 11.01.2008.

Heard learned counsel for both the parties. The learned counsel of the appellant submitted that the land was surrendered by the recorded tenant to the ex-landlord through registered deed. It is narrated that in



lower court the appellants were not impleaded as a parties. The learned counsel pleaded that the lower court case suffers from resjudicata because previously a case initiated by one Bigal Munda with respect to the same land which was dismissed by L R D C, Ranchi in the year 1998.

The learned counsel for the respondent submitted a written argument in which it is stated that the respondent wrongly filed restoration case in lower court He had no knowledge about registered surrender and earlier SAR Case no 85/92-93. It is also stated that the respondent has no objection if the present appeal is allowed.

A perusal of documents submitted in the present case shows that Sukhar Munda s/o Mahru Munda surrendered the land to Baijnath Dayal Bharti vide deed no. 3618 dated 16.12.1937. On 7.4.1938, the above mentioned landlord settled the land to one Randhir Sahay through sada hukumnama. After his death Bahadur Bhushan Sahay came in possession.

The land exchanged hands and finally Mira Devi, Akhauri Navin Kumar & others transferred the plot nos. 602, 1091, 1099, 1100, 1101,219,220 area 1.24 acre to Kamal Bhusan and Asin Kumar Sinha. On the basis of the said transfer, the land was mutated vide case no 1201 R27/ 05-06. Rent Receipts has also been collected vide Receipt no 1763844 dated 23.01.2006.

The learned counsel for the appellant has also referred to SAR Case No. 85/92-93 to emphasis that the case suffered from ' *Res Judicata* '.

In the lower court, Ramadhar Singh was respondent. The appellant did not get opportunity to produce documents and adduce evidence. In the end of justice, it is required that the appellants should be heard and examined.



The lower court will also be required to scrutinize and verify the affidavit dated 11.1.2008 sworn by Puran Munda relinquishing all the claims on the said land.

For the reasons and facts mentioned above, the appeal is allowed. The case is remanded back to the lower court for fresh hearing with an opportunity to the appellant.

Dated – 25.01.2008

Dictated & Corrected by


Additional Collector
Ranchi