

In the Court of Additional Collector, Ranchi
Mutation Revision 15 R-15/07-08

Baldeo singh & others Revisionist

Versus

Sachhidanand Sinha & others Respondent

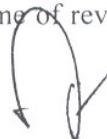
ORDER

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04.02.2008

This revision has been filed against the order dated 2.1.2007 passed by L R D C, Sadar Ranchi in Mutation Appeal 33R-15/06-07 by which the appellate court disallowed the appeal of the revisionist filed against the order of Circle Officer, Ranchi dated 26.4.2006 passed in Mutation Case No. 137R-27/06-07. The Circle Officer had allowed mutation of following land in favour of the respondent.

Village	Khata	Plot	Area
Bhitha	43	614	31 Decimal
		970	<u>49 Decimal</u>
		Total	80 Decimal

The case of revisionist states that the land in question is recorded in the name of Basu Singh who died in the year 1959. After his death, the revisionist inherited the property and came into possession. In the year 2002 the property was amicably partitioned between revisionist no 1 & 2 in partition suit no 334/2002 and share of revisionist were carved out. After partition, they got their names mutated vide case no 337/2002 and started paying rent to the State. Recently the revisionists came to know that the respondents got their names mutated with respect to the disputed land on the ground of a so called sale deed of 21.4.1960 vide mutation case no 137/06-07. The so called deed was never executed by the father of the revisionists and it is forged and fabricated document. After getting the knowledge of the said order, the revisionists preferred an appeal before L R D C Ranchi which was dismissed without considering the facts and law points involved in the case. The appellate court did not consider that the name of revisionists was mutated on the



basis of the judgment and decree passed in partition suit no 334/2002. The revisionists were never served any notice by the lower court of Circle Officer. It is added that the lower court and appellate court should have considered that possession is a vital factor in a mutation proceeding and the possession of present revisionists were found in possession of disputed land in mutation case no 337/2002. Therefore no application of the respondents should have been entertained without giving an opportunity to the petitioners.

Heard learned counsel for both the parties. Written arguments were also filed by both the parties. In the written argument of the revisionist, the contents of memo of appeal has been repeated. It is further stated that the decree passed by the civil court is always binds the revenue court. The decree is still in force and never challenged by the respondents in any competent court. The appellate court have no jurisdiction to give findings on the title of the property. It is stated that the death certificate of Basu Singh proves that he died in the year 1959, hence question of execution of deed in the year 1960 is wholly wrong and baseless.

In the written argument of the respondent, it is stated that Basu Singh sold the property to the respondents vide deed no 2827 dated 21.4.1960. In the said sale deed the revisionists Baldeo Singh s/o Basu Singh was himself the identifier of the executant Basu Singh whose signature and thumb impression also kept in the office of the District Sub Registrar Ranchi. The executant Basu Singh has also granted Safinama receipt accepting full consideration money against the sale. Respondents came into possession over the land since the date of purchase which is still continuing. The name of the respondents was rightly mutated by Circle Officer Ranchi and rent receipts granted in favour of the respondents. There is no error or irregularity in the appellate courts order. The revisionists and some other land brokers are trying to dispossess the respondents from the disputed land, which resulted in a misc. case no M 1145/06 u/s 144 of Cr.P.C. before SDM,



Sadar, Ranchi which was decided in favour of the present respondents. The respondents are rightful owner of the disputed land. It is pleaded that there is difference between appeal and revision. The revisional court has limited power to see only the illegality and not to overhaul the entire proceeding. The executant Basu Singh died long after 1960. The claims of the revisionists regarding death of Basu Singh in the year 1959 is false, frivolous and mischievous. They never produced any authentic document before appellate court regarding the death of Basu Singh prior to 1960. If any document is being produced by the revisionists, the same is forged and fabricated.

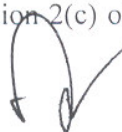
Coming to the facts of the case, the respondents got their name recorded in jamabandi vide Mutation Case No. 137 R27/06-07. Nearly 80 decimals of land in plot nos. 614 and 970 were transferred by Basu Singh to Sachchida Nand Sinha & others vide registered deed no. 2827 dated 21.4.1960.

The above mentioned deed is challenged by the revisionists on the ground that Basu Singh died in 1959. The death certificate given by local Mukhia has been produced in the court. The same stand was taken before the Appellate Court which was turned down.

The revisionists have produced a document of partition having no 334/2002 between Jeetu Singh and Baldeo Singh. The said partition case resulted in amicable settlement in terms of compromise between the two and ended up in accordance with conditions of compromise.

The two revisionists applied for mutation on the basis of decree of the partition suit and their names were mutated vide Case No. 337/2002. They started paying rent to the state. A Demarcation Case No.3/05-06 was also opened and the land concerned was demarcated.

One of the main arguments given by the respondents is concerned with the jurisdiction of the Additional Collector's court. The learned counsel for the respondents has questioned the jurisdiction of the present court as revisional authority in the first para of the written argument. In this connection, section 2(c) of the Bihar Tenants Holding



(Maintenance of Records) Act, states that “Collector” includes an Additional Collector, an Additional Deputy Commissioner specially empowered by the State Government to discharge all or any of the functions of the Collector. Needless to say that present court has been specially empowered and has no jurisdiction problem.

Section 15(2) of the Bihar Tenants Holdings (Maintenance of Records) Act reads as follows:-

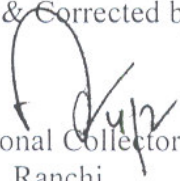
“No order modifying, altering or setting aside any order appealed against shall be passed under this action unless the parties concerned have been given reasonable opportunity of being heard.”

In the lowest court Mutation Case No 137 R27/06-07, Basu Singh (father of present revisionists) was shown as jamabandi raiyat by the revenue karmachari. But he/his son was not given any opportunity of presenting his case. This vitiates the order of the Circle Officer, Ranchi as well as that of the Appellate Court.

Keeping in view of the facts mentioned above, the orders of the Appellate and the lower court cannot be sustained in the eyes of law. In the result, the revision is allowed and the orders of the appellate and the lowest courts are set aside.

Dated:- 4.2.2008

Dictated & Corrected by


Additional Collector
Ranchi