

In the Court of Additional Collector, Ranchi

Mutation Revision 22 R-15/07-08

Kalawati Devi

Revisionist

Versus

Jaiprakash Sahu & others

Respondent

ORDER

11
24.03.2008

This revision has been filed against the order dated 30.10.2007 and 20.11.2007 passed by L R D C, Ranchi in Mutation Appeal 129 R15/06-07 by which the appellate court set aside the order dated 2.12.1998 of Circle Officer, Ranchi Town passed in Mutation Case no 308 R-27/98-99. The Circle Officer has allowed the mutation petition of the revisionist for the following land.

Village	Khata	Plot	Area
Siram	58	596	0.04 Acres
		597	0.15½ ,,
		659	0.19½ ,,
		746	0.68 ,,
		Total	1.04 Acres

The case of revisionist states that there is total 2.07 acres of land in RS khata no 58 which was recorded in the name of Nandu Sahu S/O Chhunku Sahu. Recorded tenant died leaving behind two sons Jagarnath Sahu and Harinath Sahu. The appellant and respondent has equal share in the lands of khata no 58. The revisionist is decendent of late Jagarnath Sahu and the respondents are descendents of Harinath Sahu. The land of khata no 58 was partitioned on 24.10 1998 through “ Panchnama” and half share 1.04 acre was allotted to the revisionist. Subsequently the revisionist applied for mutation of the disputed land which was allowed on 2.12.1998. The order of

Circle Officer was challenged by the respondent in appellate court of LRDC Ranchi. It is further narrated that the appellate court set aside the order of CO Town without considering the facts of the case. It is added that plot no 820 area 1.71 Acres was acquired by Indian Railway. The appellate court observed that lower court heard the mutation case ex-parte without giving notice to the present respondent. But general notice was issued and no anybody filed any objection in lower court. It is also described that appellate court conclusion that respondent is entitle of 1.30 acres of land in khata no 58 plot no 746 is not sustainable because respondent has only 65 decimal share in plot no 746. The respondents had sold deferent area to deferent persons out of 65 decimal of land. They were not in possession of any part of plot no 746. In the year 2004-05, the revisionist applied for measurement before C O Town. Accordingly measurement was conducted in measurement case no 51/2004-05. The plot no 746 area 65 decimal land was demarcated by the amin of town Anchal Ranchi. Holding no 913 B has been created in Ranchi Municipal Corporation vide case no 378/1999.

Heard learned counsel for both the parties. The learned counsel of the revisionist stated that recorded tenant Nandu Sahu had two sons namely Harinath and Jagarnath. Jagarnath Sahu died leaving behind his wife Kalawati Devi and three sons Bhim, Arjun and Nakul Sahu. Harinath died leaving behind five sons Rajendra, Jaiprakash, Bihari, Dhaneshwar and Suresh Sahu. A mutual partition of the lands of khata no. 58 was held on 24.10.98 between both the parties. In the year 1973, Jagarnath Sahu applied for verification of plots in his share. The learned counsel narrated that Kalawati Devi applied for mutation which was allowed vide case no. 308 R27/98-99. The appellate court

observed that respondent was not served notice and set aside the mutation order. The respondents claimed that 1.04 acre land fell into his share and rest 1.04 acre was acquired by railways. A appeal case no 29 R15/04-05 was filed by Jaiprakash Sahu and others which was dismissed and in lower courts present appeal case, the matter was suppressed by the respondents. The learned counsel asserted that holding is established in the name of the revisionist.

The learned counsel for the respondent argued that prior to 1960, there was oral partition between the parties. Plot no 820 and 821 was acquired by railway vide case no 4/1959-60 and compensation paid to Jagarnath Sahu for 1.20 acres. It is narrated that in plot no. 596, 597 houses and “Baries” are standing as per partition. Plot no. 746 is in dispute as excess possession of Harinath Sahu as per terms of partition. The respondents are in possession. There was no dispute till Jagarnath and Ganesh Sahu were alive. Now dispute is being created by their successors. The appellate courts observation is right to the extent that all co-shares were not noticed. It is asserted that appellate courts order is valid and legal.

Both the parties have also filed written arguments which is only repetition of memo of appeal and oral submissions.

Going into the facts of the case, jamabandi was admittedly in the name of Nandu Sahu when Kalawati Devi wife of Late Ganesh Sahu applied for mutation which was registered as 308 R27/98-99. The applicant moved the court of Circle Officer, Ranchi on the basis of so called “Pachnama Batwara” dated 24.10 1998. This mutual partition was accepted by the lowest revenue functionary viz, the karmachari and the Circle Inspector. The Anchal Adhikari accepted the recommendations of the lower functionaries and allowed mutation

application of Smt. Kalawati Devi on 2.12.1998. The learned DCLR has rightly concluded that the Circle Officer ought to have noticed the successors of Govind and Harinath Sahu before jumping to any conclusion. But the lowest court did not do the same and passed ex parte order in favour of Kalawati Devi. The DCLR has very rightly set aside the order of the C.O., Ranchi.

The section 14(2) of the Bihar Tenants Holdings (Maintenance of Records) Act says that the Anchal Adhikari is required to issue a general notice and notice to the parties concerned to file objection. But the Circle Officer (Anchal Adhikari) did not comply with the provisions of the Act. He did not issue notice to the descendents of Govind Sahu & Harinath Sahu and delivered ex-parte order.

In view of the facts and the law mentioned above, I do not find any reason for interfering with the order of the DCLR, Ranchi dated 20.11.2007. In the result, the revision petition is disallowed.

Dated:- 24.03.2008

Dictated & Corrected by

Sd/-

Additional Collector,
Ranchi