

In the Court of Additional Collector, Ranchi

Mutation Revision 28 R-15/07-08

Gopal Nath Tiwary & others

Revisionist

Versus

Brother James Roy

Respondent

ORDER

10
7.04.2008

This revision has been filed against the order dated 16.10.2007 passed by D C L R, Ranchi in Mutation Appeal Case No. 20 R15/04-05 by which the appellate court set aside the order dated 12.11.2003 passed by Circle Officer, Mandar in Mutation Case no 114 R-27/04-05. The Circle Officer was disallowed the mutation petition of the respondent for the following land.

| <u>Village</u> | <u>Khata</u> | <u>Plot</u> | <u>Area</u> |
|----------------|--------------|-------------|----------------|
| Nawatanr | 109 | 496 | 1.15 Acres |
| | | 498 | <u>1.40</u> .. |
| | | Total | 2.55 Acres |

The case of revisionist states that the state of Chotanagpur settled the disputed land in favour of Anant Ram Tiwary and Balgobind Ram Tiwary on 9.2.1949. After the settlement, they came into possession of the disputed land and paid rent regularly to the landlord, State of Bihar and now State of Jharkhand. It has been expressed that in recent survey operation, the survey authority found the revisionists in joint possession of the land and subsequently "Banda Parcha" prepared in the name of the revisionists. It is contended that the respondent never filed any objection before competent authorities. It is described that the respondent had filed mutation case no 151/58-59 which was rejected by Circle Officer, Mandar. Appeal Case No. 3 R8/59-60 was also rejected by Rent Suit Deputy Collector, Ranchi. Recently the respondent filed mutation case no 114 R27/03-04 but it was also rejected by Circle Officer, Mandar. But the appeal of the respondent is allowed by

DCLR, Ranchi. It is claimed that the revisionists are in peaceful possession of the disputed land with valid right and title. It is alleged that the appellate court order is contrary to law and facts of the case.

Heard learned counsel for both the parties. The learned counsel of the revisionist submitted that Chotanagpur Raj settled the disputed land to Anant Ram Tiwary & others in the year 1949. A registered kabuliat was executed by the raiyats on 1.2.1949. The learned counsel added that mutation case no 114 R27/03-04 filed by the respondent which was rejected by C.O Mandar but DCLR, Ranchi set aside the order of C O on the ground that land is playground. It is stated that playground is on RS plot no 505 which is proved by "Banda Parcha". Respondent claims on the ground of settlement from Anant Ram Tiwary but there is no partition between two brothers. It is pleaded that res-judicata will apply in this case because earlier mutation case no 151 R27/58-59 and appeal no 3/1959-60 was rejected on 10.10.1958 and 15.2.1963 respectively. It is asserted that Tanaja and objection u/s 83 of the CNT Act was also rejected by the revenue officer of survey and settlement.

The learned counsel for the respondent argued that Anant Ram Tiwary transferred the disputed land in the year 1949. The said deed was a sale deed and was not a mortgage deed as alleged by the revisionists. It is stated that admittedly the land measuring area 5.78 acres settled by Ratu Raj in the name of Anant Ram Tiwary and Balgovind Ram Tiwary. Anant Ram sold the land to the respondent but present revisionists never challenged it. It is claimed that school came in possession and at present there is a playground. It is explained that dispute arises in 1988 for the first time and a "Panchayati" was held and an agreement came through. Anirudha Ram Tiwary had no share in the disputed land but he also signed agreement. It is pleaded that revisionist no 3 Rakesh Tiwary has no locus standi because the land was not transferred in the name of his father.

To recall the facts of the case, it is undisputed that Anant Ram Tiwary and Balgobind Ram Tiwary acquired the land from the Chotanagpur Raj in 1949. The combined area of the two plots 496 and 498 is 2.55 Acre. Latter Anant Ram Tiwary transferred the land to Rev. Robert Minj through registered deed on 16.02.1949. The purchaser applied for mutation vide case no. 151R27/1958-59 which was rejected. After this, the successor-in-interest of the purchaser again applied for mutation which was registered as case no. 114 R27/ of 2003-04. The Circle Officer, Mander disallowed the mutation. The same applicant filed the appeal case no. 20 R15 of 04-05 in the court of the Deputy Collector Land Reforms, Ranchi Sadar and the appeal was allowed. Now the descendents of the sellers have filed the present revision. Considering the first Miscellaneous Case No. 151 R27 of 1958-59, the BDO disallowed the mutation application on the ground that RS Khata no. 109 was a joint property and that the deed had been executed by one co-sharer only. But the learned BDO had not observed anything on possession.

It is note worthy that in recent survey and settlement, Rev. Minj filed an objection no. 67 of 84-85. The revenue officer confirmed the possession of the objector and ordered the concerned khata to be prepared in his name. The revisionists have not given any indication that they have filed any revision under section 89 of the CNT Act.

The learned LRDC, Ranchi Sadar has stated in his order that the disputed land is a playground. It is being used for sports at present.

In view of the facts mentioned above, there is no infirmity in the order of the Appellate Court. The revision is disallowed.

Dated :- 7.04.2008

Dictated & Corrected by

Sd/-

Additional Collector

Ranchi