

# In the Court of Additional Collector, Ranchi

Mutation Revision 33 R15/07-08

Sarasnath Singh & others

Revisionist

Versus

Sugandhi Devi & others

Respondent

## ORDER

8/26.03.2008

This revision is directed against the order dated 27.11.2007 passed by L R D C, Ranchi in Mutation Appeal 83 R15/07-08 whereby the appellate court has set aside the order dated 23.7.2007 passed by Circle Officer, Mander in Mutation Case No. 105 R27/07-08. The Circle Officer had disallowed mutation petition of the respondents in respect of following land.

Village	Khata	Plot	Area
Mesal	48	144	0.70 acres
		145	0.86 ,,
		146	0.20 ,,
		147	0.30 ,,
		148	0.96 ,,
		149	0.68 ,,
	49	43	0.94 ,,
		25	0.02 ,,
	26	341	1.04 ,,
	72	63	1.26 ,,
	108	301	<u>0.31 ,,</u>
		Total	4.55 acres

The case of revisionist states that the land appertaining to RS khata no. 48,49,56 and 108 were held and possessed by Bholanath Singh, Shankarnath Singh and Shiv Sharan Nath Singh. Maninath Singh and others had filed a partition Suit no. 89/45 of 1959-60 for partition of joint family properties against Bholanath Singh and others. The case continued upto 1971. During the pendency of the said partition suit, a deed of partition dated 17.4.1963 was executed by Bholanath Singh and

others but the same was not acted upon and it was mere a paper transaction. It is further stated that in terms of the said partition deed, no separate zamabandies were created in the names of Bholanath, Shankarnath and Shivsharan Nath Singh and they continued in possession as before. Shankarnath Singh had no male issue and he had two daughters Sugandhi Devi and Jhugi Devi. Jhugi Devi was mother of opposite party no 3 to 5. Both the daughters of Shankarnath were married about 50 years ago and they gone to their matrimonial house. Shankarnath had no male issue as such he and his wife at all material time maintained by the sons of Bholanath and Shivsharan Nath Singh. After the death of Shankarnath and his wife, their last rites were performed by them. It is claimed that the share of Shankarnath is came into the possession of the appellants after his death in the year 1980. The daughters of late Shankarnath Singh never came in possession and by aflux time they lost their right title over the land in dispute. It is described that for the first time in May 2007 the opposite party no. 3 Pradeep Singh came to the village and tried to make construction over plot no 402 but on protest of the revisionist, he left the village. Thereafter the respondents filed an application before Circle Officer for mutation of lands under khata no. 48,49,56 and 108 in collusion of land brokers vide mutation case no. 105 R27/2007-08. The mutation application was rejected on 23.7.2007 because the respondents were not found in possession over the land. The respondents challenged the order before L R D C, Ranchi in Mutation Appeal Case No. 83 R15/07-08 in which the revisionists placed all the material facts before the appellate court. But the appellate court taking erroneous view of the law and facts, illegally allowed the appeal and set aside the order of the Circle Officer, Mander.

Heard learned counsel for both the parties. The learned counsel of the revisionists argued the same points and facts as stated in memo of appeal. The learned counsel narrated that in lower court of C.O. Mander, it was reported that the respondents are not in possession, but no

objection was filed by them. It is submitted that khata no. 72 plot no. 63 is belongs to a tribal and revisionists has no concern with the same. The learned counsel narrated that plot no 341 is also tribal land but the matter was decided by Commissioner, South Chhotanagpur Division in favour of the revisionists. It is pleaded that appellate court quoted a decision reported in PLJR 1990 (1) page no 650 but it is related to SAR Case and not to mutation.

The learned counsel for the respondent argued that the land of khata no. 48, 49 is recorded as Majhias in RS khatian in the name of Jagarnath Singh. Jagarnath died leaving behind three sons Bholanath, Shivshankarnath and Shivsharannath. The respondents are descendents of late Shivshankarnath Singh. It is narrated that a partition deed was executed between three sons of recorded tenant in the year 1963. Jamabandi was separately established on the basis of partition deed in the name of three brothers. The three brothers were paying rent jointly in the name of Bholanath Singh. It is submitted that two of the revisionists had filed a case u/s 144 of the Cr.P.C. vide case no. 36/2007 which was ordered on 28.2.2007 in favour of the respondent Sugandhi Devi and the possession of respondent is confirmed.

To sum of the issue, khata no. 48 and 49 are in dispute and admittedly the demand was running in the name of Bholanath Singh. Bholanath Singh had two other brothers – Shiv Shankar and Shiv Charan. Sugandhi is the heir of Shiv Shankar. There was a partition between Bholanath, Shivshankar and Shivcharan in 1963. The revisionist have admitted the partition but denied its execution. The appellate court of DCLR, Ranchi, Sadar has duly recognized the partition and ordered separation of jamabandi on the basis of the same. There is no infirmity in the order of the DCLR, Ranchi. Revision is disallowed.

Dated:- 26.03.2008

Dictated & Corrected by

Sd./-

Additional Collector,  
Ranchi.