

# **In the Court of Additional Collector, Ranchi**

## **Mutation revision 35 R15/07-08**

Mursalin Ansari & others

Revisionist

Versus

Md Maqusood Ansari & others

Respondent

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### **ORDER**

11/9.07.2008

This revision is directed against the order dated 27.11.2007 passed by L R D C, Ranchi in Mutation Appeal 86 R15/07-08 whereby the appellate court has upheld the order dated 21.6.2007 passed by Circle Officer, Kanke in Mutation Case No. 217 R27/07-08. The Circle Officer had allowed mutation petition of the respondents in respect of following land.

<b><u>Village</u></b>	<b><u>Khata</u></b>	<b><u>Plot</u></b>	<b><u>Area</u></b>
Neori	22	381	21 decimal
	98	481	<u>11.3/4</u> ,,
			Total 32.3/4 decimal

But the claim of the revisionist is related to Plot No. 381 area 21 decimal only. The case of revisionist states that the land appertaining to CS survey khata no. 85 CS plot no. 281 and 282 area 1.05 acres was recorded as possession of Sk. Asdali. But in the time of final publication of Revisional Survey in 1935, the name of Sk. Asdali was not entered in RS record of right by mistake. As a result, a Title Suit No. 206/1942 was filed by the heirs of Sk Asdali in the court of Munsif, Ranchi for confirmation of there title and possession. The suit was allowed by Munsif, Ranchi in the year 1945 and the title and possession of the heirs of Sk Asdali was confirmed in CS Khata No. 85 CS Plot No. 281 and 282 area 1.68 acres. By virtue of the final decree passed by the competent civil court on 12.9.1945, the record of Revisional

Survey was terminated and title and possession of Sk Asdali's heirs was confirmed. The order of Munsif Ranchi was also confirmed in Title Appeal No. 138/1945. The heirs of Sk. Asdali were remained in possession of the land of CS Khata No. 85 CS Plot No. 281 & 282 which was converted as RS Khata No. 22 RS Plot No. 381 till there respective lifetime. The present revisionists are descendents of Sk Asdali and still in possession of the disputed land. The name of there ancestors is entered in register II and rent had been paid regularly. It is further stated that the respondents have no any right title and possession over the land but mutation was allowed on the basis of sale deed dated 17.5.2007 without any proper enquiry by Circle Officer, Kanke. The revisionists preferred an appeal before LRDC, Ranchi against the order of Circle Officer, Kanke which was disallowed on 27.11.2007 in mutation appeal Case No. 86 R15/07-08. It is pleaded that no proper enquiry was done by the lower court and mutation was allowed on a single day proceeding. No general notice was served properly. The lower court and appellate court ignored the fact that the right, title and possession of the revisionists was decided by competent civil court in favour of the ancestors of revisionists, and respondent have no any right title, possession over the land.

Heard learned counsel for both the parties. The learned counsel of the revisionists stated that the right title and possession of the ancestors of the revisionists was decided by the competent civil court in title suit no. 206 of 1942 and CS entry was upheld on 12.9.1945. Title appeal no. 138 of 1945 was also rejected on 20.5.1948. It is narrated that on 17.5.2007, father of the respondent transferred the disputed land to his son on the basis of RS entry. The learned counsel alleged that on 21.6.2007 mutation was done in the name of the respondent in a single day proceeding without proper notice. It

is also submitted that in present survey operation, the Settlement Officer ordered against the respondent on 24.8.1992 in a case u/s 89 of the CNT Act.

The learned counsel for the respondents argued that revisionists did not try to get their name mutated. Appellate court order is right. The learned counsel claimed that revisionists are not heirs of Sk Riyasat and are not in possession.

It is true that Title Suit No. 206 of 1942 declared title and possession over 1.05 acres out of 1.68 acres in Plot No. 381 of Sheikh Gansu, Sheikh Naju and Sheikh Tajmuddin. By virtue of the final decree passed by the competent Civil Court, the entry of the Revisional Survey was corrected. Accordingly the three came in possession and their heirs also continued in occupation of the land.

Importantly the land in question had been sold by Md. Ali Hasan s/o Sheikh Dhodu. Sheikh Dhodu was Defendant No. 2 in above stated Title Suit and had lost the case.

The revisionists have also submitted a copy of the order in Case No. 59 of 1989. The order u/s 89 of Charge Officer I, dated 24.8.1992 has rejected the claim of Sheikh Riyasat and retained the khata in favour of Ghulam Rasool who is the father of the Appellant No.1.

Rent Reciept No. 0630267 produced in the present court also shows that khata 22 area 44.28/3.4 area of land is still running in the name of Sheikh Gansu and others. The disputed land 381 falls in the same khata No.22.

The order of the appellate court is devoid of any finding. The conclusion is given in last three paragraphs on page nos. 5 and 6 of the DCLR's order. It refers to a report of the Circle Inspector who reported that vendors of khata 22 were heirs of Jamabandi Raiyats and that of khata 98 were the same whole father had purchased Plot No. 481 in 1950.

The Circle Officer, Kanke has mutated the land in favour of the respondents in a so-called “Camp Court” vide Mutation Case No. 217 R27 of 2007-08. Neither ‘General Notice’ was issued nor ‘Notice to concerned parties’ was given and the record was disposed on the same date 21.6.2007.

Section 14(2) of the Bihar/Jharkhand Tenants Holding ( Maintenance of Records) Act, 1973 requires that “ Anchal Adhikari shall issue a general notice and also give notice to the parties concerned to file objection, if any, within 15 days of the issue of notice....” But the provisions of the Act was not complied with in the present case which is a serious error in the eyes of the law.

Needless to say that the revisionists were necessary parties in the Mutation Case because demand was still running in the names of their predecessors after the declaration of Title by the Civil Court in Title Suit Case No. 206 of 1942. In the case of Santa Lohar vrs. Dwarika Sahu reported in 1989 BLT 267, it has been held that the jurisdiction of the Civil Court is not barred under section 258 of the CNT Act. The judgment of Title Suit was also ignored by both the Appellate and lower court.

For the reasons stated above, the revision is allowed; the impugned order concerning Plot No. 381 (area -21 decimal) of the Circle Officer, Kanke and that of the DCLR, Ranchi dated 27.11.2007 in Appeal Case No. 86 R15of 2007-08 is set aside. C.O. Kanke is directed to delete 21 decimal appertaining to Plot No. 381 of Khata No. 22 from new jamabandi of Md Maqsood Ansari, Md Hasan Ansari and others.

Dated :- 9.07.2008

Dictated & Corrected by

Sd./-

Additional Collector,  
Ranchi.