

In the Court of Additional Collector, Ranchi.

Pre-emption Appeal 16 R15/07-08

Mudla Oraon

Appellant

Versus

Meera Devi & others

Respondent

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ORDER

19/27.06.2008

This appeal has been filed against the order dated 20.07.2007 passed by L R D C, Ranchi in Pre-emption Case No.3/05-06 by which the lower court rejected the pre-emption application of the Appellant in respect of following land.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Soso	50	6	8 Decimal

The case of appellant states that the appellant is the adjacent raiyat of disputed plot which has been transferred by the respondent no 2 in favour of the respondent no. 1. The appellant is the raiyat of plot no. 5 under khata no. 101 of village Soso which is adjacent of vended plot no. 6 under khata no. 50. The aforesaid plot no. 5 was allotted to the appellant in amicable partition amongst the co-sharers. The land of plot no. 5 and 6 is agricultural in nature. The respondent no. 2 has sold part of plot no. 6 measuring an area of 8 decimal to the respondent no. 1 through registered sale deed dated 2.7.2005. The appellant requested the respondent no. 2 to transfer the plot no. 6 to him but he did not agree. As a result, being the adjacent raiyat, the appellant filed an application u/s 16(3) of the Bihar Land Reforms (Fixation of Ceiling and Requisition of Surplus Land) Act1961. Appellant also deposited consideration money with ten percent total of Rs 16,500 in favour of the Collector, Ranchi on 29.7.2005. In the lower Court the date was fixed on 8.4.2006 which was adjourned to 15.4.2006 and last chance was given to the respondent for filing show cause. But the respondent did not file show cause on that day and the case was fixed for order. Thereafter no information was given to the appellant about the record. It is alleged that on 24.8.2007, it came

into the knowledge of the appellant that the case was dropped on 20.7.2007. It is pleaded that the lower court order is wrong and beyond the provisions of law.

The respondents replied that husband of the respondent no. 1 was an employee in PHC, Kumharia since 1968 to 1982 and had a very good cordial relation with the family of respondent no. 1 and 2. During the lifetime of the father of the respondent no. 2, he assured to provide a piece of land to the respondent no. 1 to build a house. As per commitment, respondent no. 2 sold the disputed land to respondent no. 1 vide registered deed no. 10246 dated 2.7.2005. It is pleaded that the land in dispute is not cultivable but it is Tanr land since last revisional survey. The land had never been cultivated either by the ancestors or by the respondent no. 2 and boundary mentioned in the sale deed also establishes the fact that the land is a homestead land. It is asserted that the section 16(3) of the Land Ceiling Act has been enacted for the purpose of check the fragmentation of agricultural land and the same is not applicable in homestead land.

Heard learned counsel for both the parties. The arguments are repetition of the facts and contentions as stated in memo of appeal and show cause respectively.

The order passed by the LRDC, Ranchi Sadar dated 20.7.2007 is not a speaking order and the case was dismissed owing to absence of the concerned parties. Such an order cannot be a reasoned and sustainable order. Neither evidence was taken nor any finding was given.

In the result the order of lower court is set aside. The case is remanded to the court of LRDC, Ranchi for hearing it afresh and pass speaking order after recording evidences and perusing necessary documents. Appeal is allowed.

Dated :- 27.06.2008

Dictated & Corrected by

Sd./-

Additional Collector,
Ranchi.