

neither the MS Plot No. 1735 was sold nor bought, then mutation of said plot clearly indicated deep rooted conspiracy and fraud with the malafide intention to grab the public land in collusion with officials of Circle Office Ranchi. The appellant RMC vide its letter no. 654 dated 26.3.2004 again requested the Circle Officer, Ranchi to quash the mutation and a copy of the order of Hon'ble High Court in WP 4163/03 was sent. A copy of the above letter was forwarded to DC, Ranchi. It is stated that the respondent filed a L P A No. 294/04 against the order of Hon'ble High Court passed in WP(C) 4163/03 which was rejected on 12.5.2005. Thereafter the respondent filed a SLP in Hon'ble Supreme Court of India against the order of Hon'ble High Court which was also rejected on 18.10.2005. It is asserted that all these facts proves that the MS Plot No. 1735 never sold to the respondent. It was not mentioned in the sale deed and even then the said plot was wrongly mutated in his name by the Circle Officer.

The respondent never appeared in this case in spite of registered notice and publication of notice in the Newspaper "The Telegraph" Kolkata and Jamshedpur edition.

Heard learned counsel for the appellant which is mostly repetition of the facts as stated in memo of appeal.

The recorded area of municipal plot no. 1736 is 0.425 acres and that of 1735 is 0.281 acres. The Deed of Absolute Sale dated 17th May 2002 executed by Smt. Sabitri Ghosh & others in favour of M/s Binay Prakash through its Karta Binay Prakash indicates that total land transferred was 0.425 acres or 42.5 decimal as stated in Schedule of Property. The boundary given in the schedule is as follows:

North – Road, Drainage over MS Plot No. 1735

South – Tank

East - Jail Road

West – Sarda Babu Street

It is obvious that Plot No. 1735 was shown as a boundary and did not include in the property transferred by Mrs. Sabitri Ghosh and others.

The respondent's predecessor in interest had earlier moved in a Title Suit No. 57/1957 and the court decreed the plaintiff's suit both on the issue of title and adverse possession. The Ranchi Municipality filed a Title Appeal No. 13/1960 before the Additional Judicial Commissioner, Ranchi who maintained the decree by order dated 16.12.63. Thereafter Second Appeal was filed in Hon'ble High Court in which it was held that there was no clear evidence to show that plaintiff had obtained title by adverse possession and by its judgment dated 17.12.1967, remanded the case to the trial court. The predecessor of the purchasers filed Civil Appeal No. 1034 of 1971 in the Supreme Court which set aside the judgment of the second Appellate Court by its order dated 6.2.1981.

Thereafter Binay Prakash & HUF through Karta Binay Prakash filed a writ application (No. 4163 of 2003) for directing the Ranchi Municipal Corporation (RMC) not to interfere with peaceful possession of 1735. The Hon'ble Court in its order dated 10.3.2004 dismissed the said writ. subsequently L.P.A. No. 294 of 2004 was then filed by Binay Prakash which too was dismissed on 12.5.2005. Obviously the hon'ble High Court did not recognize the possession and title of Binay Prakash.

Coming to the Rent Fixation Case No. 171 of 2002-03, Binay Prakash filed an application on 30.9.02. The amin and karmachari submitted separate reports. The amin submitted on 18.10.2002 that 1736 was enclosed in a boundary and that Plot No. 1735 was vacant but used by trekker for parking.

The revenue karmachari quoted the report of amin and stated on 1.5.2003 that the applicant was the occupant of 1736 having an area of 13 k. 9 ch. and 1735 having an area of 13 k. 7 ch. Thus he recommended the rent fixation of 40 kathas of land @ Rs 4 per katha. The DCLR, Ranchi Sadar in his order dated 17.5.2003 accepted the recommendation and ordered the fixation of rent for both 1735 and 1736 ignoring the fact that the applicant had neither title nor possession over Plot No. 1735.

The entry in Municipal Khatian with regard to Plot No. 1735 is as follows:

Plot प्लॉट नम्बर	Holding होल्डिंग नम्बर	Street नाम सडक या गली जिसमें होल्डिंग है।	Owner नाम मालिक का मय वल्दियत कौमियत और शकुनत	Occupier नाम दखलकार का मय वल्दियत कौमियत और शकुनत	Description स्थान प्लॉट नम्बर मय ब्यान मकानात	Total area कुल रकबा	Plinth area मकान के प्लिंथ का रकबा	Remarks कैफियत
1	2	3	4	5	6	7	8	9
1735	-	जेल रोड वेस्ट	मुनसपेल्टी	मुनसपेल्टी	सडक में नाली	0.281		

The above stated entry in khatian obviously shows that the nature of land is “Sarak Mai Nali”. Even in the amin’s report dated 18.10.2002 showed Plot No. 1735 in the form of road being used as parking of trekkers and more importantly outside the boundary of the respondent. As such the rent fixation order of the LRDC, Ranchi cannot be sustained in the eyes of law. The rent of a road and drain cannot be fixed for any individual.

More importantly, the Supreme Court had not adjudicated on Plot No. 1735 and as such the decision of the Apex Court quoted in the orders of the Circle Officer, Ranchi Town and DCLR, Ranchi, Sadar is misconceived and wrong. In fact the order of Hon’ble Supreme Court had no application on Municipal Plot No. 1735.

As such the order of the DCLR, Ranchi, Sadar dated 17.5.2003 and subsequent compliance order given by the Circle Officer, Ranchi dated 5.6.03 are hereby set aside. Appeal is allowed.

Circle Officer, Ranchi Town is directed to delete Plot No. 1735 from the jamabandi of Binay Prakash.

Dated :- 2.7.2008

Dictated & Corrected by

Sd./-

Additional Collector
Ranchi.