

# In the Court of Additional Collector, Ranchi.

## SAR Appeal 02 R15/08-09

Prem Shankar Jaiswal

Appellant

Versus

Bacho Oraon

Respondent

### ORDER

11/28.07.2008

This appeal has been filed against the order dated 24.11.2007 passed by Sri Devnish Kiro, Special Officer, Ranchi in SAR Case No. 141/07-08 by which it is decided to restore the following land to the respondent.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Hehal	182	840	25 Decimal

The case of appellant states that the lower court case was filed against one Anjuka Kachhap who had no right title interest and possession over the land in question. The land in dispute was sold by the recorded tenant to V. N. Chadda after obtaining permission from Deputy Commissioner, Ranchi u/s 49 of the CNT Act in Case No. 109 R8/ 1960-61. Thereafter the purchaser came in possession over the land. After the death of V N Chadda his two sons Rajesh Chadda and Rajeev Chadda inherited the property and became the owner of the land. Rajeev Chadda sold the land to Anjuka Kachhap through registered sale deed dated 14.11.1983. Anjuka Kachhap came into possession over the land and she got her name mutated in Circle Office, Ranchi. Anjuka Kachhap transferred the land to the present appellant through registered sale deed dated 30.9.2003 and 1.10.2003. After purchasing, the appellant came in possession with the structures and boundaries standing over the land. It is stated that earlier a case u/s 71 A of the CNT Act being Case No. 49/1996-97 was filed on same land which was rejected by Special Officer on 28.7.1997 and no appeal or revision was preferred against that order, thus the

present case is barred by resjudicata. It is pleaded that after permission of Deputy Commissioner there is no illegality in transfer of the land and therefore proceeding u/s 71 A is not maintainable.

The respondent did not appear in this case in spite of service of notice. Heard the learned counsel for the appellant who repeated the facts as stated in memo of appeal.

A perusal of the petition of the respondent shows that in para 5(c), it is stated that transfer was made without approval of the Deputy Commissioner, Ranchi. The petitioner was concerned with Plot No. 840 having an area of 25 decimals and the case was against one Anjuka Kashyap.

A perusal of the document of permission reveals that Mangru, Jhirga and others obtained permission of the Deputy Commissioner to sell 18 decimal in Plot No. 841 to B N Chadda vide Misc. Case No. 124 R8II of 1960-61. The permission was followed by a Registered Deed of Sale. In the same way, Ladura Munda & Dhiru Mangra Oraon secured permission of the Deputy Commissioner for sale of 50 decimal of Plot No. 840 to same B N Chadda vide Misc. Case No. 109 R8II of 1960-61.

In 1983, Rajiv Chadda s/o B N Chadda transferred the land to Anjuka Kashyap who again sold the land to present appellant by two different sale deeds. An area of 9 katha 2 chatak was transferred to Prem Shankar Jaiswal on 1.10.1983. and another 10 katha was transferred to the same purchaser vide sale deed no. 9896 dated 30.9.2003.

The aforesaid facts prove that the lands in question were transferred by ancestors of petitioner after obtaining permission under section 49 of the CNT Act from the competent authority. No challenge was made that the provisions of section 49 was not followed.

There is a specific period of limitation prescribed under sub section (5) of section 49 of the CNT Act to annul any transfer in case of illegality

committed in the matter of transfer of land. The application having not been preferred within the period of 12 years as prescribed u/s 49(5) of the CNT Act, the period of limitation cannot be extended by allowing a party to file case u/s 71 A of the CNT Act.

In view of the facts and rule mentioned above, the order of the lower court is set aside. Appeal is allowed.

Dated:- 28.07.2008

Dictated & Corrected by

Sd./-

Additional Collector,  
Ranchi.