

In The Court of Additional Collector, Ranchi

SAR Appeal 119R-15/08-09

Prakash Chandra Mishra Appellant

Versus

Binod Kr. Munda & others. Respondent

Order

The petitioner has moved this court against the order dated 15.07.08 passed by the S.A.R. Court in SAR Case No. 310 of 2005&06. By the impugned order, the lower court has passed the order of restoration in favour of the respondents.

The main issue raised by the appellant in the present case is non-joinder of the name of Prakash Chandra Mishra as respondent by the lower court. It is said that SAR Case No. 310/05-06 was registered against C.D. Mishra. It is admitted that P.C. Mishra had appeared in lower court and drew the attention of the court for rectification of the name of C.D. Mishra. But the court did not consider the same and passed order against C.D. Mishra.

Order XV Rule 1 of the code of Civil Procedure provides that "Where at the First Hearing of a suit it appears that the parties are not at issue on any question of lower fact, the court may at once pronounce judgement". The lower court has clearly ignored thus provision of law.

On a careful consideration of the points raised in the present appeal, the order of the SAR Court dated 15.07.08 is not

sustainable in the eyes of law. The appeal is allowed and the order of the lower court is set aside. The case is remanded to the lower court for fresh hearing.

Dictated & Corrected by

Sd./-

Additional Collector,
Ranchi.