

In the Court of Additional Collector, Ranchi.

SAR Appeal 25 R15/08-09

Bhushan Choudhary

Appellant

Versus

Krishna Oraon

Respondent

ORDER

10/12.11.2008

This appeal has been filed against the order dated 31.3.2008 passed by Sri Decnish Kiro, Special Officer in SAR Case No. 95/04-05 whereby the lower court decided to restore the following land in favour of the respondent.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Madhukam	17	206	8 Katha

The case of appellant states that earlier the heirs of khatiyani raiyat Nayka Oraon and others had filed a SAR Case No. 46/88-89 against the father of present appellant namely Goberdhan Choudhary. In that case, D C L R, Ranchi had been pleased to pass an order of compensation. The compensation amount was fixed as Rs. 22,000 per katha and subsequently an amount of Rs. 1,76,000 was deposited by the father of the present appellant vide bank draft no. 39840 dated 15.12.1998. The draft was handed over to the petitioners by the court of D C L R in presence of the advocate of the petitioners. The signature of the petitioners was identified by advocate Sri B Sarangi which is evident from the order sheet. Thereafter the land was regularised in favour of the father of present appellant. Appellants father Goberdhan Choudhary got his name mutated in Circle Office, Ranchi. It is claimed that the present lower court case is hit by the principle of resjudicata. It is alleged that even after perusing the order sheet of previous SAR Case, the lower court passed order of restoration.

Heard learned counsel for the appellant who retreated the facts and points as contended in memo of appeal. Respondent did not appear in this case in spite of receiving of notice.

It is apparent from the order dated 6-12-1998 passed by the D C L R, Ranchi Sadar in SAR Case No. 46/98-99 that one Nayka Oraon had filed the case against Goberdhan Choudhary (father of appellant) and the learned presiding officer had fixed a compensation amount of Rs 1,76,000 for 8 kathas of land. The said compensation amount was paid to petitioners vide Bank Draft No. 39840 dated 15.12.1998. No appeal was preferred against that particular order.

Strangely the lower court initiated a fresh SAR Case No. 95/04-05 on the same land and present appellant Bhushan Choudhary was also made a party. The lower court has also passed restoration order against the appellant which is not sustainable in the eyes of law. Such a case was not even maintainable in the court.

Hence the order of the lower court dated 31.3.2008 relating to Bhushan Choudhary is hereby quashed. Communicate the order to all concerned. Appeal is allowed.

Dated:- 12.11.2008

Dictated & Corrected by

Sd./-
Additional Collector,
Ranchi.