

# In The Court of Additional Collector, Ranchi

SAR Appeal No. 35 R15/08-09

Jagdish Prasad

Appellant

Versus

Mahesh Pahan

Respondent

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## Order

12.01.2009

Heard the parties. The main issue raised by the appellant in the present case is lack of opportunity to him in the lower court to file show-cause and submit the relevant papers.

The appellant has prayed for quashing the order dated 30.01.08 passed by the SAR Officer, Ranchi in Case No. 283 of 2007-08. The lower court has ordered the restoration of land to Mahesh Pahan by evicting Jagdish Prasad from Plot No. 102 Area 60 decimals under village Bargain of Ranchi Town Anchal.

Appellant's case stated that the lower court order sheet is replete with contradictions. The disputed land belonged to Sukhu Pahan and Mohan Pahan who applied to the D.C., Ranchi for permission to sell the property. The Deputy Commissioner granted permission to sell the land to S. L. Sahgal through his order dated 20.06.1960 in Case No. 104R8 of 1959-60. Subsequently the land was registered in the name of Mr. Sahgal who sold it to Archana Prasad and present appellant is an agreement holder.

The counsel for the respondent contended the stand of the appellant on the ground that the permission was not taken for any specific purpose under section 49 of the CNT Act. It was added in argument that the permission order did not contain any specific purpose

for transfer and as such contravened the provisions of Sec. 49 of the CNT Act. The learned counsel cited a decision of the Jharkhand High Court reported in 2004(i) JCR 402 Jhr. to strengthen his pleadings.

A perusal of case No 104 R8 of 1959-60 shows that the then Deputy Commissioner, Ranchi granted permission to Sukhu Pahan to sell land to S.L. Sahgel vide his order dated 01-07-1960. In view of this order, there does not appear to be any contravention of the law.

The present court is also convinced with the argument of the appellant's counsel that the SAR Court has noted contradictory orders in the order sheet dated 11.01.08 and 29.01.08. On 11.01.08, the respondent was shown present and seeking time but on 29.01.08 the court wrote in order sheet that the respondent refused to receive the notice.

In view of the facts mentioned above, this court is not in a position to fathom the order of restoration. The lower court should consider the permission u/s 49 of CNT Act given by the Deputy Commissioner, Ranchi to Sukhu Pahan for transferring the land and dispose of the case in accordance with Section 49(5) of CNT Act. Hence appeal is allowed and the order of the lower court is set aside. The case is remanded to the lower court for passing appropriate orders in the light of above mentioned observation.

Dated - 12-01-09

Dictated & Corrected by

Sd./-

Additional Collector,  
Ranchi.