

In the Court of Additional Collector, Ranchi

SAR Appeal 50 R15/08-09

Krishna Murari Giri

Appellant

Versus

Chandar Oraon

Respondent

ORDER

9/3.10.2008

This appeal has been filed against the order dated 5.6.2008 passed by Shri Deonish Kiro, Special Officer, Ranchi in SAR Case No. 373/04-05 by which 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>
Hehal	14	80	10 Katha

The case of appellant states that recorded tenant Ram Oraon son of Sundra Oraon obtained permission u/s 49 of the CNT Act from Deputy Commissioner through Case No. 119 R 8II/58-59 and sold the disputed land to L P Singh, S P Sinha and S N Singh vide registered deed no. 6065 dated 3.12.1958. Purchaser S N Singh transferred 88 decimals and 87 decimals of land in plot no. 80 through Kanhaiya Singh and Smt. Shilawati Singh through registered deed dated 30.7.1965. Later Kanhaiya Singh transferred 3 katha land to Smt. Meena Singh through registered sale deed on 12.4.1990. Meena Singh sold her purchased land to present appellant vide registered deed dated 28.12.1994. It is further stated that the present appellant is one of the purchaser through the transaction taken from Kanhaiya Singh against whom a SAR Case No. 201/88-89 was instituted which was dismissed on 26.4.1989. It is claimed that the present case is hits by the principles of resjudicata.

Heard learned counsel for both the parties. The learned counsel of the appellant stated that the respondent has filed two cases on the same plot against two different persons, but case no. 194/2005 was dismissed by the lower court. the respondent filed SAR Appeal No. 53R15/06-07 before the present court which was also dismissed on 10.10.2007. The case no. 373/04-05 against the present appellant was allowed by the lower court. It is pleaded that in both the SAR Cases same land was involved and was acquired by similar process. The learned counsel asserted that the present case is hit by resjudicata as earlier a SAR Case No. 201/88-89 was instituted against Kanhaiya Singh which was dismissed on 26.4.89 and no appeal was filed.

The learned counsel for the respondent pleaded that the respondent is paying rent for total area of land. It is narrated that no permission was given to Sachidanand Singh and the case is not time barred because appellant purchased the land in 1994 when it was vacant. It is submitted that in SAR Case No. 201/88-89 the land was same but parties were different hence resjudicata is not applicable in the present case. The learned counsel asserted that transaction was done in contravention of the provisions of section 49 of the CNT Act. Permission was obtained for 3 acres but total 4.25 acres land was purchased.

It is an admitted fact that the land under dispute was transferred to Sachidanand Singh, L P Singh and N K Singh after obtaining permission u/s 49 of the CNT Act through Misc. Case No. 119 R8 II of 1958-59. The permission was sought by Ram Oraon and could be challenged within 12 years before the Deputy Commissioner, Ranchi.

The principle of Res-Judicata is also applicable in the case because earlier a SAR Case No. 201/88-89 was filed by Chander Oraon against Kamakhya Singh. The said restoration case was dismissed on 26.4.1989 but no appeal was filed.

In the present case, Kamakhya Singh had sold 3 katha of land in 1990 to Smt. Meena Singh w/o Anil Kumar Singh. Meena Singh later transferred the land on 26th February 1994 to present appellant Krishna Murari Giri.

In view of the facts mentioned above, it is concluded that there has been no violation of the CNT Act. Besides the principle of Res-Judicata is also operative in the present proceeding. Hence appeal is allowed on 3 katha of land. Communicate the order to all concerned.

Dated:- 3.10.2008

Dictated & Corrected by

Sd./-

Additional Collector,
Ranchi.