

In the Court of Additional Collector, Ranchi

SAR Appeal 63 R15/08-09

Sanjeev Kumar Singh

Appellant

Versus

Fagu Oraon

Respondent

ORDER

6/10.11.2008 This appeal has been filed against the order dated 13.11.2007 passed by Shri Deonish Kiro, Special Officer, Ranchi in SAR Case No. 226,227,228/07-08 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>
Hesal	50	831	20 Katha

The claim of appellant is only 4 katha 4 chhatak and 30 sq.ft. of land. The case of appellant states that he came to know about the lower court case first time when Circle Officer, Ranchi went for delivery of possession. The lower court passed order against appellants grand mother Sharda Devi w/o Alimurdan Singh who expired in the year 1979.

It is stated in memo of appeal that the land in dispute is recorded in the name of Sirua Oraon and others. The land is not being used in agricultural purpose since 1955 as such on the request of the recorded tenant, the landlord converted the nature of the land in chhaperbandi. Thereafter the recorded tenant sold the land to different persons and purchasers made construction over there respective portion of land. One Kartik Chandra Deogharia also purchased a part of disputed land and constructed kachha house. Later he sold the land with house to Smt. Parmeshwari Devi through registered deed no. 6077 dated 16.9.1969.

Parmeshwari sold the same to Late Sharda Devi vide registered deed no. 2108 of 1974. Sharda Devi made construction over the land and began to live therein. Sharda Devi died leaving behind her only son Ramsurat Singh. Ramsurat also died on 14.5.2003 leaving behind two sons Sanjeev Kumar Singh and Sanjay kumar singh who are present appellants. It is claimed that holding no. 772/C-I of ward no. 4/34 is created in Ranchi Municipal Corporation. The house was electrified since the lifetime of Late Sharda Devi. It is stated that after the death of Ramsurat Singh, the appellants amicably partitioned the house and got equal share each. It is asserted that the lower court has been passed order against a dead person which is not sustainable in the eyes of law. It is also claimed that the case is barred by law of limitation.

Heard learned counsel for both the parties. The learned advocate of the appellant narrated same story as stated in memo of appeal. The learned counsel for the respondent submitted that the land is stands recorded in the name of Maria Oraon but surrender was made by wrong person Sirua Oraon. It is narrated that nobody appeared in the lower court and ex-parte order was passed. It is claimed that appellants case is wrong.

Considering all the pleadings, arguments and documents, it appears that the recorded tenant had applied to the ex landlord in 1951-52 and the landlord was converted into chaperbandi. Following this, Sorua Oraon transferred the land to Kartik Chandra Deogharia who later sold the same to Parmeshwari Devi wife of Shankar Lal Modi vide sale deed no. 6077 dated 16.9.1963, Later Parmeshwari Devi also transferred the land in 1974 to Sharda Devi who died in 1979 leaving behind her husband Ram Surat Sing. The latter is father of the present appellants. But all these facts need to be examined by lower court and established by means of evidences.

The S A R Court has passed restoration order against Sharda Devi who had died in 1979. Such order is not sustainable in the eyes of the law. In the result, the order of the lower court dated 13.11.2007 in respect of Sharda Devi is quashed. The court concerned is directed to issue notice to the heirs and successors of Sharda Devi and pass appropriate order in accordance with law. Appeal petition is allowed.

Dated:- 10.11.2008

Dictated & Corrected by

Sd./-
Additional Collector,
Ranchi.