

In the Court of Additional Collector, Ranchi

Mutation Revision 05 R-15/08-09

Ranjit Bhattacharya & others

Revisionist

Versus

Arun Munda

Respondent

ORDER

7
8.08.2008

This revision has been filed against the order dated 29.1.2008 passed by D C L R, Ranchi in Mutation Appeal Case No. 90 R15/07-08 by which the appellate court set aside the order dated 15.3.2007 passed by Circle Officer, Ranch Town in Mutation Case no 7520 R-27/06-07. The Circle Officer was allowed the mutation petition of the revisionist for the following land.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Lalpur		MS 1384, 1385, 1392, 1388	137½ Karies

The case of revisionist states that the disputed land is MS Plot No. 1392 which is recorded in the name of Barka Bandhana Munda s/o Sukhram Munda in MS Record of Right published in 1929. The recorded tenant transferred 31 decimal land to Nepal Chandra Bhattacharya and Jagat Bandhu Bhattacharya through registered sale deed dated 4.10.1928. Since MS Record of Right was finally published in the year 1929 as such in the sale deed the Municipal Holding No. 643 and 644 is mentioned and Barka Garh Jamabandi No. 61 and Plot No. 27 is given in the sale deed. The land is specifically described in the sale deed with boundary of each side

having its measurement. The name of purchasers was entered in rent assessment register of Ranchi Municipality in the year 1931-32. The respondent also admitted in appellate court that sale deed was executed by recorded tenant on 4.10.1028. The only question was raised that MS Plot No. 1932 is not included in the sale deed. It is stated that recorded tenant Bandhana Munda had transferred 31 decimal of land in Barka Garh Jamabandi No. 61 Plot No. 27 which includes Plot Nos. 1383, 1383, 1385, 1386, 1388 and 1392 area 22 kari, 46 kari, 79 kari, 09 kari, 09 kari, 39 kari and 119 kari respectively. This fact is fully determined by the Pleader Commissioner in a report submitted in Partition Suit Case No. 208/2001. In the year 2006, dispute was created by the respondent and matter was referred to the Circle Officer Ranchi. A measurement proceeding no. 2/2006-07 was initiated and measurement was done by Anchal Amin. The report submitted by the Amin is same as the report of Pleader Commissioner. Thereafter the respondent filed a SAR Case No. 88/2007-08 for restoration of MS Plot No. 1932 against the revisionist which was dismissed on 4.12.2007. It is claimed that in view of the facts it is crystal clear that the land of MS Plot No. 1392 is within the purchased area of 31 decimal and is in possession of the revisionist.

Heard learned counsel for both the parties. The learned counsel of the revisionist retreated the points and facts as described in revision petition. It is pleaded that matter of Title cannot be decided in Revenue Cases.

The learned counsel for the respondent submitted that respondent is descendent of Aghnu Munda. It is claimed that landed

property is not mentioned in sale deed by Plot No. and sale was made by Barka Garh Jamabandi No. 61. It is narrated that partition suit was ex-parte and decided in favour of the appellant. The respondent has filed another Title Suit. It is stated that SAR Appeal No. 62 R15/2007-08 is still pending in the court of Deputy Commissioner, Ranchi for Plot No. 1392.

A perusal of the case of the revisionist reveals that Bandhana Munda s/o Sukhram Munda sold 31 decimal of land in Holding No. 633, 644 within Plot No. 27 on 4.10.1928. According to case of the revisionist, the names of purchasers Nepal Chandra Bhattacharya and Jagat Bandhu Bhattacharya was entered in Ranchi Municipality as far back as 1931-32. During argument, the learned counsel for the revisionist pleaded that Barkagarh Jamabandi No. 61 covers Plot No. 1383, 1384, 1385, 1386, 1388 and 1392 with the total area of 314 kari or 31.04 decimals. It was further argued that the report of the Pleader Commissioner in Partition Suit No. 208/2001 strengthens the case of the revisionist in the sense that Municipal Plot No. 1392 is included in report. It was also added that the report of the Anchal Amin submitted in Re-measurement Case No. 2/2006-07 reiterates the report of the Pleader Commissioner. Last but not the least, the learned counsel cited the SAR Case No. 88/2007-08 in which the SAR Officer rejected the restoration petition (for Plot No. 1392) of Vijay Munda & others.

Coming to Mutation Case No. 7520 R27/06-07, Ranjit Bhattacharya, Ramesh Bhattachaya and Manik Bhattacharya applied in the Town Anchal Ranchi for mutation on 27.2.2007. Scanned

Section 12 of Bihar Tenants Holding (Maintenance of Records) Act, 1973, provides that every person having interest in a holding or part thereof by partition, transfer, succession, etc shall file application for the mutation of his name in respect of that holding or part thereof. But in the present case the applicants did not apply for 1388 and 1392. Hence consideration of mutation these plots was illegal.

Apparently, Municipal Plot No. 1392 was not mentioned in the mutation application. But when order sheet was opened on 27.2.07 in Mutation Case No. 7520 R27/06-07, it mentioned the following Plot Nos.-

1384

1385

1392

1388

It is apparent that two additional Municipal Plots 1392 and 1388 were added in Town Anchal even though they were not mentioned in the Mutation Application. This was a serious error in the ordersheet and consequently the mutation order dated 15.3.2007 including the above said two Plots (1392, 1388) is wrong and incorrect.

Even assuming that Plot No. 1392 was included in the order sheet of mutation case section 14(2) of Bihar Tenant Holding (Maintenance of Record) Act, 1973 requires that the Anchal Adhikari shall issue a general notice and also give a notice to the parties concerned to file objection. There is no dispute that MS Plot No. 1392 is recorded in the name of Secretary of State India in

Counsel and the name of occupier is Barka Bandhana, Etwa and Phulla. But the Anchal Adhikari did not issue any notice to their successors-in-interest. Non compliance of sub section 2 of section 14 vitiated the entire mutation process.

In the light of the facts and circumstances mentioned above, the revision petition is disallowed and there will be no change in the order of the appellate court.

Dated: - 8.08.2008

Dictated & Corrected by

Sd./-

Additional Collector,
Ranchi.