

In the Court of Additional Collector, Ranchi

Mutation Revision 08 R15/08-09

Parmanand Tiwary & others

Revisionist

Versus

Byas Mishra & others

Respondent

ORDER

10/1.12.2008 This revision is directed against the order dated 19.09.2008 passed by L R D C, Ranchi in Mutation Appeal 39 R15/07-08 whereby the appellate court has set aside the order dated 5.02.2007 passed by Circle Officer, Ranchi Town in Mutation Case No. 5966 R27/06-07. The Circle Officer had disallowed mutation petition of the respondents in respect of following land.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Misirgonda	342	2377 2384 2386 2389	2.17 acre

The case of revisionists states that they have purchased 2.17 acres of land from Malti Kanshi and others through registered sale deed dated 6.11.1974 and came into possession of the disputed land. The opposite party have purchased the same land through registered deed dated 22.10.1974. It is further stated that there was a proceeding u/s 145 of the Cr. P. C. between the parties. An area of 94½ decimal was allotted to the father of revisionists and 94½ decimal was allotted to opposite parties. Both the parties were got their name mutated in Circle Office, Ranchi and came in peaceful possession. One of the purchaser Gourishankar Pandey also joint partition of the land with the father of the revisionists by registered deed dated 30.7.1985. Accordingly both came in possession of 47¼ decimal each. The revisionists father was in possession of 47¼ decimal land. He sold 11 decimal land to other person. Thereafter 36½ decimal left in possession of the revisionists father in Plot Nos. 2377, 2384, 2386 and

2389. It is claimed that demand is running in the name of revisionists and rent receipt has been issued till 2006. On 19.9.2007, the appellate court of DCLR, Ranchi Sadar allowed Mutation Appeal No. 39 R15 of 2007-08 without hearing the jamabandi raiyat. It is pleaded that the revisionists has not made party in lower court of Circle Officer, Ranchi Town and appellate court of DCLR, Ranchi Sadar in spite of jamabandi is running in his name.

Heard learned counsel for both the parties. The learned counsel of the revisionists reiterated the contentions made in the memo of revision. The learned counsel for the respondent stated that respondent had purchased the land through registered sale deed dated 22.10.1974 however the appellant was purchased the same on 6.11.1974. Revisionists bought from father however respondent got the land from sons. It was narrated that there was a partition suit no. 3766 of 1966 decreed in 1992 and possession was given to respondent through execution case no. 11/2002. Thereafter respondent applied for mutation through Case No. 5166 R27/2006-07 which was rejected by C O Town on 5.2.2007. Now mutation is running in the name of respondent by order of DCLR, Ranch Sadar in Mutation Appeal No. 39 R15/07-08.

In the present revision, it appears that the revisoinists did not get opportunity to adduce their evidences because they were not made parties. The learned appellate authority has mentioned on page 5 that demand of 36.5 decimal was running in the name of Survajit Tiwary who was father of the revisionists. In spite of this, no notice was issued to the heirs and successors of Sarvojit. This naturally vitiates the proceeding of the appellate court. Such a hearing is not in accordance with natural justice.

In view of the facts given above, the order of the appellate court dated 19.9.2007 is hereby set aside and appeal s allowed. Case is remanded to the appellate court for hearing it afresh.

Dated:- 1.12.2008

Dictated & Corrected by

Sd./-

Additional Collector,
Ranchi.