

In the Court of Additional Collector, Ranchi

Mutation Revision 13 R-15/08-09

Akhilesh Kumar & others Revisionist
Versus

Sultan Ansari & others Respondent

Mutation Revision 14 R15/08-09

Akhilesh Kumar & others Revisionist
Versus

Sultan Ansari & others Respondent

Mutation Revision 15 R15/08-09

Punita Kumari Revisionist
Versus

Sultan Ansari & others Respondent

ORDER

15
29.09.2008

These three revisions has been filed against the order dated 27.11.2007 passed by D C L R, Ranchi Sadar in Mutation Appeal Case no.31R-15/07-08, 32 R15/07-08 and 34 R15/08-09 by which the appellate court upheld the order dated 25.4.2007 passed by Circle Officer, Namkum in Mutation Case Nos. 118 R27/07-08, 117 R27/07-08 and 116 R27/07-8 respectively. The Circle Officer disallowed the mutation petition of the revisionist for the following land.

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>	<u>Appeal No.</u>
Hesag	98	314	11 Katha	31 R 15/07-08
			17 Katha	32 R 15/07-08
			06 Katha	34 R 15/07-08

The case of revisionists of Case No. 13 R15/08-09 states that they have purchased sub plot no. 314/03 area 11 katha from Rafi Ahmad, Sami

Ahmad, Zaki Ahmad and Nafisa Begam son and daughters of Abdul Sakoor and Sahida Bano wife of Late Sultan Ahmed through registered sale deed no. 13314 dated 9.9.2006 and came in peaceful possession. They applied for mutation in Circle Office, Namkum vide Case No. 118 R27/07-08 which was rejected on 25.4.2007 by C, O, Namkum on the ground that the names of vendors of the revisionists does not exist in Register II and the same is running in the name of the respondents. Thereafter the revisionist filed Mutation Appeal No. 31 R15/07-08 before D C L R, Sadar, Ranchi which was also rejected on 27.11.2007. It is stated that the lower and appellate court did not consider that the vendors of revisionists were related to the recorded tenant Sk Jahoor Ali. There was a Partition Suit No. 113/47 filed by the successors of recorded tenant in which 1.18 acres of land was allotted to Most. Hazra as per schedule 'H' and 56 decimal was allotted to Most. Masihan as per schedule 'C' of the final decree of the partition suit. It is stated that Most. Masihan migrated to Pakistan in the year 1947 and the land allotted to her declared evacuee property. Thereafter Most Hazra who was one of the daughters of recorded tenant, came in possession of the said evacuee property along with Akbar Ali, one of the appellant. The two became custodian of the evacuee property and no any other person claimed or brought any fresh suit against them. After the death of Most Hazra and Akbar Ali, their successors inherited the property and came in possession. Most Hazra died leaving behind four sons and one daughter namely Sultan Ahmad, Rafi Ahmad, Sami Ahmad, Zaki Ahmad and Nafisa Begum. Akbar Ali died leaving behind his widow Sahida Bano. They are vendors of the revisionists. It is also described that the land was listed in Ceiling Case No. 355/1976 but the other co-sharers of the same plot has obtained the order for free from Ceiling Area.

The Case of revisionists of Case No. 14 R15/08-09 stated that he have purchased sub plot no. 314/c-1 from Nizamul Haque and Tahira Khatoon son and daughter of Late Akbar Ali through registered deed no.

13739 dated 18.9.2006 and came in possession. They applied for mutation in Circle Office Namkum vide Case No. 116 R27/07-08 which was rejected on 25.4.2007. Thereafter they filed Mutation Appeal No. 32 R15/07-08 before D C L R, Sadar, Ranchi which is also rejected on 27.11.2007 on the same ground.

The case of revisionist of Case No. 15 R15/08-09 is also same as formers. It is stated that she has purchased sub plot no. 314/c-3 from Rafi Ahmad and others through registered deed no. 13315 dated 9.9.2006 and came in possession. She applied for mutation vide Case No. 117 R27/07-08 which was rejected on 25.4.2007 and the appeal no. 34 R15/07-08 was also rejected.

Both the parties filed written argument. The written argument of the revisionists contains same story as stated in revision petitions. In the written argument of the respondent, it is replied that the revisionists have suppressed the real facts. In a mutation proceeding, possession is the main criteria. It is stated that as per Mohammadan Law every co-sharer have a specific share over the ancestral land. Sk Jahoor was the recorded tenant of the land who had eight daughters. The revisionists are not concerned with the genealogy of recorded tenant. The Karamchari and Circle Inspector reported that the revisionists never came into possession of the land. The alleged Grih Nirman Samittee was also not in possession of the land. As per share of eight daughters of the recorded tenant, Masihan Bibi had got 1.61½ acres decimal land from her father. Masihan Bibi transferred the land to the respondents by virtue of deed of gift. The respondents got their name mutated through Case No. 131 R27/89-90 and paying rent continuously. Whenever once mutation has been allowed then question of re-mutation in the name of any other person does not arise. In the appellate court, one Janta Grih Nirman Samitee intervened in the case on the ground that they have purchased the land from Power of Attorney Holder. The said Grih

Nirman Samitee have no right to claim the land before the appellate court and they should file a fresh mutation case before C.O. Namkum.

Considering the argument and pleadings of revisionists, it appears that they have purchased the land from heirs of Mos. Hazra. The latter had acquired the land through T S Case No. 113/47 in which the said Plot No. 314/G having an area of 1.18 acres was allotted to her.

At present, the demand of the disputed land Plot No. 314 is running in the name of Sultan Ansari. Sultan is one of the heirs and successors of recorded tenant Late Jahoor Ali. One of the vendor, Sahida Bano, is directly related to Sultan Ansari.

A perusal of the order passed in Mutation Case No. 118 R 27 of 2007-08 shows that the Circle Officer, Namkum has exceeded his jurisdiction and rejected the mutation of the revisionists on the report of Halka Karamchari. The Halka Karamchari did not submit any report on possession which was Serial No. 9 & 10 in the check list. Still the Circle Officer, Namkum disallowed the mutation application and the same order was upheld by the Appellate Court of D. C. L. R., Ranchi, Sadar.

In many decisions of the Hon'ble Jharkhand High Court, it has been clarified that the revenue courts have no jurisdiction to decide right and title and that they should confine on "possession" only. In the present case, possession has been ignored and mutation was decided on the basis of title.

Hence the orders of the appellate and the original courts are not sustainable in the eyes of law. Revisions are allowed with a direction to the lowest court to reopen the Mutation Cases and pass fresh orders on the basis of current possession.

Dated :- 29.09.2008

Dictated & Corrected by

Sd./-

Additional Collector,
Ranchi.