

In the Court of Additional Collector, Ranchi

Mutation Revision 16 R-15/08-09

Santosh Kumar & others

Revisionist

Versus

Sudhu Kumhar & others

Respondent

Mutation Revision 17 R15/08-09

Santosh Kumar & others

Revisionist

Versus

Sudhu Kumhar & others

Respondent

Mutation Revision 18 R15/08-09

Sonu Kumar & others

Revisionist

Versus

Sudhu Kumhar & others

Respondent

ORDER

7
8.12.2008

These three revisions has been filed against the order dated 15.04.2008 passed by D C L R, Ranchi Sadar in Mutation Appeal Case No. 94R-15/07-08, 93R15/07-08 and 92 R15/07-08 by which the appellate court set aside the order dated 9.05.2007 passed by Circle Officer, Kanke in Mutation Case Nos. 370 R27/05-06, 371 R27/05-06 and 366 R27/05-06 respectively. 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>	<u>Appeal No.</u>
Getalatu	63	173	21½ decimal	94 R 15/07-08
			21½ decimal	93 R 15/07-08
		341	35 decimal	92 R 15/07-08

The case of revisionists of Case No. 13 R15/08-09 states that the land in question is recorded in the names of Doman Kumhar and Lahru Kumhar in RS Khatian. Doman died leaving behind his only son Mangal Kumhar.

Mangal also died leaving behind four sons Kandru, Sudhu, Ramdhan and Gonberdhan. Kandru Kumhar died leaving behind his wife Jeetan Devi. The another recorded tenant Lahru Kumhar died leaving behind his only son Thiba Kumhar who also died leaving behind two sons Lagnu and Aghnu. Aghnu died leaving behind his wife Radho Devi and a minor son as his legal heir and successor. The above mentioned geneology is admitted by both the parties. It it further narrated that after the death of Mangal and Ganpat Kumhar, their all surviving heirs amicably divided the entire property among themselves by a sada family partition deed outside the court. after the death of Aghnu Kumhar, his only successors his wife Radho Devi and Minor son were being neglected by other co-sharers and tried to kick out from her share. As a result Radho Devi sold 21½ decimal land in Plot No. 173 through registered deed no. 6201 dated 16.4.2007 to revisionists Santosh Kumar and Jeetendra Kumar. The revisionists got there name mutated vide Case No.370 R27/07-08 on 9.5.2007. Being aggrieved with the mutation order, the respondents filed appeal no. 94 R15/07-08 before DCLR, Ranchi Sadar. Surprisingly the appellate court allowed the appeal without waiting for mutation case record and without calling for any report. Similarly Radho Devi transferred 21½ decimal of land in Plot No. 173 vide registered deed no. 6202 dated 16.4.2008 to revisionists Santosh Kumar and Jeetendra Kumar. Again 35 decimal land was transferred by her in Plot No. 341 through registered deed no. 6203 dated 16.4.2007 to revisionists Sonu Kumar. The revisionists got there name mutated through Case No. 371 R27/07-08 and 366 R27/07-08 respectively on 9.5.2007. Being aggrieved with the mutation order, the respondents filed appeal no. 93 R15/07-08 and 92 R15/07-08 respectively before DCLR, Ranchi Sadar. Surprisingly the appellate court allowed these appeals without waiting mutation case record and without calling for any report. It is asserted that appellate court did not consider the possession of the revisionists which is main criteria of mutation. Halka Karmachari and Circle Inspector found possession of the revisionists.

Heard learned counsel for both the parties. The advocate of the revisionists argued the same points as mentioned in revision petition. The learned counsel for the respondent pleaded that sufficient opportunity was provided by the appellate court to the revisionists but they failed to place their case. It is stated that revisionists got the disputed land transferred through five deeds. There was no partition between Lagnu and Aghnu Kumhar. Report of KC shows that land devolved from Doman Kumhar. It is pleaded that Radho Devi had no right to sell the land because Aghnu's wife was alive. According to amicable partition, Plot No. 173 was given to Kandru, Sudhu and Ramdhan Kumhar. It is alleged that revisionists are land brokers.

The only issue of consideration is whether Zamabandi running in favour of revisionists could be cancelled at the instance of the respondents who claimed the property on the basis of an amicable partition. The respondents have disputed the deed executed by Radho Devi in favour of the respondents in 2007.

The learned L R D C, Ranchi Sadar has based his order on the so called partition dated 6.2.2006 and declared in the penultimate paragraph that the heirs of the recorded tenants came in possession of land on the basis of partition. Accordingly the order of the Circle Officer, Kanke was quashed without conducting any enquiry on the point of possession. Such an order is beyond the jurisdiction of revenue authorities as they are not empowered to decide the disputes relating to right and title. The learned D C L R, Ranchi has accepted the partition deed of 2006 while denying the sale deed executed by Radho Devi. However, the Circle Officer, Kanke had allowed the mutation application of the revisionists on the basis of the registered deeds of transfer executed by Radho Devi and the possession report of the revenue karmachari.

In the circumstances mentioned above, the appellate authority was not justified in passing the impugned order dated 15.4.2008. At best, the appellate authority would have asked the respondents to go to the Civil Court for adjudication of their title and possession. It is settled principle that mutation

are ordered on the basis of possession. The revenue authorities have no authority to look into the matters of right, title and interest as has been done by the D C L R, Ranchi Sadar. The proper course for the respondents is to move to the Civil Court of the Competent Jurisdiction for relief.

For the reasons mentioned above, the revision petitions 16 R15, 17 R15 and 18 R15 of 2008-09 are allowed. The impugned orders of the Appellate Court dated 15.4.2008 is hereby set aside.

Dated:- 8.12.2008

Dictated & Corrected by

Sd./-

Additional Collector,
Ranchi.