

आदेश का क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी, तारीख के साथ
1	2	3

-:1:-

IN THE COURT OF THE DEPUTY COMMISSIONER, RANCHI

Misc Appeal No.-73 /2012-13

Bhikha Oraon - Appellant

Vs

Shibnath Oraon & Others - Respondents

ORDER

39
20.11.17

Present appeal has been preferred by the appellant Bhikha Oraon Son of Late Chotka Birsa Oraon, Resident of Village Banhara, P.S. Pithoria, District Ranchi against the respondents namely (1) Shibnath Raon Son of Late Basudeo Oraon, (2) Sukhdeo Oraon Son of Late Ladhu Oraon Both Resident of Village Boreya, P.S. Kanke, District Ranchi, (3) Smt. Radhiya Devi D/o Madi Oraon and (4) Kailash Oraon Son of Bhagtu Oraon, Resident of Banhara, P.S. Pithoria, District Ranchi on being aggrieved by and dissatisfied with the order dated 10.10.2009 passed by the Learned Rent Suit Deputy Collector, Sadar, Ranchi in Permission Case No.-628 R 8 II/09-10, wherein and whereunder, the Learned RSDC, Sadar, Ranchi has granted permission to the applicant Madi Oraon Son of Mahadeo Oraon, Resident of Village Banhara, P.S. Pithoria, District Ranchi to transfer 1.15 Acres of land appertaining to Khata No.-22, Plot No.-735 of Village Banhara, P.S. Pithoria, P.S. No.-49, District Ranchi in favour of present respondent no.-1 to 4.

According to the Learned Advocate appearing on behalf of

आदेश का क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	का टिप्पणी,
1	2	3

-:2:-

the appellant, the land under Khata No.-22 stands recorded in the R.S. Record of Right in name of Chotka Birsa Oraon, Mahadeo Oraon and Hauwa Oraon. The recorded tenant Chotka Birsa Oraon died leaving behind the appellant, while the said Mahadeo Oraon died leaving behind his only son namely Madi Oraon. The land under Khata No.-22 is still joint and has not been partitioned by metes and bounds between the legal heirs and successors of the recorded tenant. The plot no.-735 is very costly and the appellant and said Madi Oraon is entitled for ½ share upon the said plot, but inspite of the aforesaid fact, the said Madi Oraon with a view to dispossess the appellant from the land in question sought the impugned permission and has illegally transferred the same in favour of the respondent no.-1 to 4.

Further, according to the Learned Advocate appearing on behalf of the appellant, the learned court below has granted permission against the provisions contained Clause 1 of Section 46 of the CNT Act. As per Section 46 of the CNT Act, a person belonging to member of Scheduled Tribe can transfer the land to another person belonging to member of Scheduled tribe who is a resident of same police station, but as it would be evident from the sale deed dated 18.02.2010 executed in favour of the respondent no.-1 & 2 by the said Madi Oraon with respect of land in question, it is apparent that, the land transferred in favour of the respondent no.-1 & 2 situates within the Pithoria Police

आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर की गई
कारवाई के बारे में
टिप्पणी, तारीख के साथ

2

3

-:3:-

Station, while the respondent no.- 1 & 2 are resident of Kanke Police Station, hence the permission for sale of land in question has been granted against the provision of Section 46 of the CNT Act.

On the other hand, according to the learned Advocate appearing on behalf of the respondent, the instant appeal is barred by limitation and also under the provisions of the Specific Relief Act and so the same is fit to be dismissed in this score only.

Further it is averred that at very beginning Pithoria Police Station did not existed and the entire property within the said Pithoria Police Station was under the control of Kanke Police Station and so the learned courts below has rightly granted permission to sell the aforementioned land in favour of the respondent and now the respondent has purchased the land in question through a registered sale deed after obtaining permission U/s 46 of the CNT Act from the RSDC, Sadar, Ranchi.

It is also submitted on behalf of the respondent that, the appellant has already filed Title Suit No.-515/2010 and 516/2010 before the competent court, wherein witnesses have already deposed before the learned court that the land in question has been amicable partitioned between the parties of the said suit and as such this appeal is not maintainable.

Having heard both the parties and on perusal of material

Handwritten signature

आदेश का क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी, तारीख के साथ
1	2	3

-:4:-

available on record, I find that, the ground of the appellant that the land in question is still joint and has not been partitioned till date does not appear to be convincing, but taking in consideration other grounds raised by the appellant I find that, before arriving into any just conclusion, it is necessary to ascertain the fact whether both the applicant/seller and purchaser are resident of same police station or not.

Hence for the reasons aforementioned, this appeal is allowed and the impugned order passed by the Learned Rent Suit Deputy Collector, Sadar, Ranchi is hereby set-aside and the matter is remanded back to the learned courts below to pass afresh order in the light of discussions made hereinabove after giving proper opportunity to all the parties concerned.

Communicate this order to all concerned authorities for information and necessary action.

Dictated & Corrected

Deputy Commissioner
Ranchi

Deputy Commissioner
Ranchi