

केस का सं० और तारीख	आदेश ओर पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्रवा के बारे मे टिप्पणी, तारिख के साथ
1	2	3

03.02.2021

IN THE COURT OF THE DEPUTY COMMISSIONER, RANCHI

SAR APPEAL NO.- 12R 15/2017-18

Ajit Tirkey Son of Late Patras Tirkey, a person of unsound mind represented through his wife & next friend Mrs. Shanti Choranth, Resident of Kokar Chuna Bhatta, Police Station-Sadar, District-Ranchi .....Appellant

VERSUS

Gangi Lakra wife of Late Ajit Oraon, Resident of Kokar Chuna Bhatta, Police Station-Sadar, District-Ranchi (Jharkhand) ..... Respondent

ORDER

This appeal has been preferred on behalf of Ajit Tirkey Son of Late Patras Tirkey, a person of unsound mind represented through his wife and next friend Mrs Shanti Choranth, on being aggrieved by and dissatisfied with the order dated 15.09.2005 passed by the Learned Special Officer, Schedule Area Regulation, Ranchi in SAR Case No.-303/04- 05, wherein and whereunder, the learned courts below restored the land appertaining to Khata No.-62, Plot No.-864 area 2 Katha of Village Kokar, P.S. Sadar, District Ranchi in favour of the present respondent.

Heard both the parties. According to the Learned Advocate appearing on behalf of the appellant:-

The land under R.S. Plot No. 864 of Khata No. 62 measuring an area of 70 Decimals besides other plot situated at Village-Kokar, Thana no. 196, P.S. - Sadar, District-Ranchi has been recorded in the name of Langra



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Oraon, Dhela Oraon, Tembo Oraon, Koka Oraon, Bhairo Oraon All Sons of Chotka Chadra Oraon by caste Oraon having equal share. The recorded raiyat Langra Oraon and Koka Oraon died issueless. In an amicable partition between the surviving recorded raiyats, the land in dispute i.e., land under plot no. 864 of Khata No. 62 was allotted to the share of the Dhela Oraon, grand father of Ajit Oraon. The said Dhela Oraon died leaving behind Sukra Oraon, Gagri Oraon, Sanchu Oraon, Lego Oraon, Chunda Oraon and Mangra Oraon who all inherited the property left by deceased Dhela Oraon. In an amicable partition the aforesaid land besides other land allotted to the share of Chunda Oraon. The said Chunda Oraon died leaving behind Ajit Oraon as his son and legal heir and successor who inherited the property left by the deceased Chunda Oraon. Thus said Ajit Oraon acquired the ancestral property of Khata no. 62, situated at Village-Kokar P.S.-Sadar District-Ranchi.

The said Ajit Oraon being the owner of the said land and in order to satisfy his legal requirement intended to sell the aforesaid land. The appellant approached the said Ajit Oraon for purchasing the same and after mutual negotiation between the parties, the said Ajit Oraon agreed to transfer his land at the rate of Rs. 16,000/- per Katha. Accordingly the said Ajit Oraon executed an agreement dated 30.07.2000 for sale of the said land after receiving the advance of Rs. 4000/- in cash. The Appellant further paid total consideration of the land in question amounting to Rs.33,284/- to Ajit Oraon as per the agreement and on receipt of the entire consideration money the appellant was put in possession of the aforesaid land in part performance of the agreement. The appellant after coming into possession of the suit land constructed rooms over portion of the aforesaid land after



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investing a large sum of money and is residing there with his family. The said Ajit Oraon applied for permission being permission Case No.- 1332/2000-01 and permission U/s 46 was granted vide order dated was 03.08.2001, which would be evident from the Letter No.-38 (ii) dated 10.02.2016 issued under Right to Information Act by the office of L.R.D.C. Public cum Information officer Sadar Ranchi.

The appellant requested the said Ajit Oraon to execute and register deed of sale but he postponed the matter on one pretext or other. Unfortunately the said Ajit Oraon died on 03.09.2004 leaving behind the present respondent as his widow and a minor son namely Sawan Lakra as his legal heir and successor. The present appellant thereafter on several occasions requested the present respondent and her son to execute and register deed of sale after obtaining permission U/s 46 of the CNT Act, but the respondent failed and neglected to perform their part of agreement, as a result of which the appellant filed Title Suit No.-8/2016 before the Court of Munsif, Ranchi for specific performance of agreement.

The present respondent after suppressing the aforesaid real fact preferred the impugned proceeding and has managed to obtain an ex-parte order for restoration of the land in question against the present appellant. The appellant had no knowledge of passing of the impugned order. He came to know about the impugned order passed in SAR Case No.-393/2005-06 from the notice dated 29.08.2015 sent on behalf of Gangi Lakra and Sawan Lakra in reply to the notice dated 07.07.2015 sent by them.

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In reply, according to the Learned Advocate appearing on behalf of the respondent:-

The instant appeal is bad in law as because the appellant has not impleaded Swana Lakra, who is one of the necessary party of this case. Although the appellant has already been taken a plea that heirs of recorded tenant Ajit Lakra died leaving behind his widow Gangi Lakra and only son Sawan Lakra, but the said Sawan Lakra has not been impleaded as respondent in the present appeal.

The husband of the respondent had not executed any agreement for sale in favour of the appellant during his lifetime, so there is no question of obtaining permission u/s 46 of the CNT Act for transferring the land in question in favour of the present appellant. The appellant has failed to bring on record any order, which could suggest that permission for transferring the land in question was accorded to Late Ajit Lakra, the husband of the present respondent vide alleged Permission Case No 1332/2000-01. The present respondent has no knowledge about the aforesaid alleged permission case. According to appellant himself the alleged permission was granted in the year 2001, but the said Ajit Lakra died on 02.09.2001 and since then appellant kept mum upon the matter, for reason best known to him. The appellant for the first time started claim the land in question 2016 on the basis of so called unregistered agreement. The alleged agreement is illegal because no permission was taken prior the execution of agreement as per provision laid in section 46 of C.N.T. Act.

The respondent being the mother of her minor son Sawan Lakra, in order to save the interest of the minor son, filed impugned S.A.R. case u/s 71(A) vide SAR Case no.

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393/05-06 against the appellant. The SAR court after taking cognizance issued a show cause notice to the appellant. He appeared in the said SAR case and sought adjournment file show cause, but neither he filed any show cause nor took any step in the impugned proceeding, hence the learned Courts below on the basis of materials available on record and evidence brought by the present respondent passed ex-parte order for restoration of land against the present appellant.

The appellant had full knowledge of the impugned proceeding in view of the fact that in SAR Case no. 502/07-08 initiated against the present appellant, she appeared in the said proceeding and filed show-cause, however the same was dismissed on 12.11.2008 on the ground that already order for restoration of land in question has been passed vide impugned SAR Case No.-393/2005-06.

It is settle principle of law that on the basis of agreement no right, title interest or possession can be passed in favour of agreement holder. The appellant has also taken false plea that he constructed residential rooms over the land in question, where he is residing with his family member.

It is admitted by the appellant himself that he has filed a Title Suit No.- 8/2016 in the court of Munsif Ranchi which is pending till today. It is settled law that same issues cannot be raised in two courts having different jurisdiction and there are possibilities of passing conflicting finding.

The present appeal has been preferred after fourteen years of passing of the impugned order and the same is hopelessly barred by limitation.



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Having heard both the parties and on perusal of materials available on record, I find that the learned courts below has restored the land in question solely on the ground that, the present appellant is exercising possession over the land in question without obtaining permission U/s 46 of the CNT Act. On perusal of the LCR, I find that, the Learned Rent Suit Deputy Collector, Sadar, Ranchi vide order dated 03.08.2001 passed in Case No.-1332/2000-01, has accorded permission U/s 46 of the CNT Act to the aforementioned Ajit Oraon, the deceased husband of the present respondent to transfer his land in favour of the present appellant. The appellant is exercising possession over the land in question on the basis of agreement dated 30.07.2000 executed by said Ajit Oraon in favour of the appellant. So there seems no violation of Section 46 CNT Act in the instant matter.

For the reasons aforementioned, this appeal is allowed. The impugned order dated 15.09.2005 passed by the Learned Special Officer, Schedule Area Regulation, Ranchi in SAR Case No.-303/04- 05 is set aside.

Communicate the order to the Special Officer, Scheduled Area Regulation, Ranchi for information and necessary action.



Deputy Commissioner  
Ranchi

Dictated and Corrected by



Deputy Commissioner  
Ranchi