


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 :-

24.12.2021	<p style="text-align: center;">IN THE COURT OF THE DEPUTY COMMISSIONER, RANCHI</p> <p style="text-align: center;">SAR Appeal No.47 R 15/2017-18</p> <p>1. Prakash Mahto, 2. Pradeep Mahto, both sons of Gulal Mahto, 3. Hiralal Mahto, son of Sambat Mahto, All resident of village Dimsujarda, P.S. Tamar, District Ranchi Appellants</p> <p style="text-align: center;">-Versus-</p> <p>Baneshwar Pahan, son of late Gopal Pahan, Resident of village Dimsugarda, P.S. Tamar, District Ranchi Respondent</p> <p style="text-align: center;">ORDER</p> <p>Present appeal has been preferred against the order dated 22.11.2017 passed by the Sub-Divisional Officer, Bundu in Case No.- RM 03 of 2010, wherein and whereunder the learned SDO, Bundu upon an application under Section 242 read Section-71A of the C.N.T. Act preferred by the respondent against the present appellant, has restored the land under Khata No.- 224 bearing Plot No.- 947 measuring an area of 07 decimals out of 20 decimals - situated in Village - Dimbugarha, P.S.-Tamar, District – Ranchi in favour of the present respondent.</p> <p>According to the Learned Advocate appearing on behalf appellant, the respondent filed a case for restoration under Section 242 C.N.T. Act against the appellant in the Court of S.D.O. Bundu with respect of the land bearing Plot no.947, Khata no. 224, area 7 decimals out of 20 decimals situated at village Dimsujarda, P.S. Tamar, Distt. Ranchi. The land in question under Khata No.-224, Plot No.-947 of Village Dimsurjarda is recorded in Bakast under the Mundari Khutkattidar Malik Laxhi Ram Pahan. The land in question i.e. plot no. 947 is Bari land i.e. part of Chhaparbandi holding. The ancestor of the appellant acquired the aforementioned land in the year 1963 from the father of the Respondent. The Mundari Khutkattidar recognized him as raiyat by granting rent receipts.</p>	
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The appellants have acquired right, title and interest upon the land in question by remaining in possession over the same within the knowledge of all concerned including the respondent for more than 47 years. The appellant has acquired title by way of adverse possession. The impugned proceeding initiated below is barred by limitation.

The appellants have also built substantial structure much before the 1969 and the nature of land is chhaparbandi(Ghar Bari), hence the application for restoration under Section 242 of C.N.T. Act is not applicable

On the other hand, according to the Learned Advocate appearing on behalf of the respondent the land under Khata No.- 224 of Mauja- Dimbugarha, P.S. Tamar, Thana No.- 208, District - Ranchi comes under - R. S. Khewat No.- 16. The Khewatdar of the said R. S. Khewat No.- 16 is Lakhi Ram son of Mundra Pahan. The said Khewat is Bakasth Mundari Khuntkati which is duly recorded in the name of Lakhi Ram Pahan, son of Mundra Pahan. The above named Khewatdar namely Lakhi Ram died leaving behind one son namely Gurucharan Pahan. He also died leaving behind three sons namely Gopal Singh Munda, Nepal Singh Munda and Jaipal Singh Munda alias Pahan. Gopal Singh Munda alias Pahan also died leaving behind five sons namely Rohina Pahan, Jeet Mohan Pahan, Teju Pahan, Lal Pahan and Baneshwar Pahan. The said Baneshwar Pahan alias Baneshwar Singh Munda is the petitioner in Case No.- RM 03 of 2010. According to Section 240 of the C.N.T. Act, there is a restriction on transfer of Mundari Khut Kuttidari tenancies by Sale, whether in execution decree or order of a court or otherwise. The appellant/opposite party have claimed that their ancestors namely Sambal Mahto, son of Saheba Mahto acquired the above land on 12.03.1963 from Gopal Singh Munda and others, the ancestor of the petitioner/respondent by Sada Patta. The appellants are not the member of Schedule Tribe otherwise also the purported transfer took place without seeking prior permission of the Deputy Commissioner under Section 240 of the C.N.T. Act. Therefore there is a contravention of Section - 240 of the C.N.T. Act.

It is a settled principle of law that the alleged Sada Patta has no evidential value in the eye of law and no title passes either to ancestor of appellant / opposite party or to the present appellant /


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opposite party over the land in question. The possession of the appellant / opposite party over the land is illegal. The appellant's ancestors have unlawfully obtained possession of the land in question which is a Mundari Khuntkatti tenancy and as per 242 read with Section 71A of the C.N.T. Act, the unlawful possession of the land obtained by the appellant/ opposite party or his ancestor by Sada Patta is illegal and the above land is fit to be restored and the appellants are liable to be ejected therefrom.

Heard both the parties. On perusal of material available on record, I find that, the appellant has claimed to have acquire the land in question forming the subject matter of this appeal on the basis of alleged sada patta. It is settled law that, a transfer made through sada patta has got no evidentiary value in the eyes of law. A transfer deed of immovable property is compulsorily regiterable as per Section 17 of the Registration Act. It is admitted fact that the land in question is Mundari Khuntkatti. As per Section 240 of the C.N.T. Act, there is a restrictions on transfer of Mundari Khunt-Kuttidari tenancies by Sale, whether in execution decree or order of a court or otherwise. Hence the alleged transfer made with respect of the land in question has been made in contravention of Section 240 of the CNT Act. So as per 242 read with Section 71A of the C.N.T. Act, the appellants are having unlawful possession over the land in question. They are liable to be ejected from the same.

For the reasons aforementioned, I do not find any infirmity in the impugned order passed by the Learned SDO, Bundu in Case No.-RM 3/2010. Hence this appeal is dismissed. The order dated 22.11.2017 passed by the Sub-Divisional Officer, Bundu in Case No.-RM 03 of 2010 is hereby upheld.

Communicate the order to the Sub- Divisional, Bundu, Ranchi for information and necessary action.

Dictated & Corrected

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24/12/2021.
Deputy Commissioner
Ranchi

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24/12/2021
Deputy Commissioner

Ranchi