

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

Mutation Revision Case No.-21 R 15/2019-20

Khushboo Kumari Wife of Shri Amar Kumar,

R/o Village Rani Bagan, P.O. +P.S. Bariatu, District Ranchi,

..... Petitioner

-Versus-

The State of Jharkhand

..... Respondent

ORDER

Present Revision has been preferred against the order dated 16.08.2018 passed by Land Reform Deputy Collector, Sadar, Ranchi in Mutation Appeal Case No.-265 R 15/2017-18, wherein the Learned LRDC, Sadar, Ranchi dismissed the appeal preferred by the present petitioner after upholding the order dated 20.10.2016 passed by the Learned Circle Officer, Baragai Anchal in Mutation Case No.-225 R 27/2016-17 rejecting the application for mutation preferred by the present petitioner with respect of land under Khata No.-31, Plot No.-352 area 2.47 Decimals of Village Bariatu, Thana No.-193, District Ranchi.

According to the Learned Advocate appearing on behalf of the petitioner:-

The land in dispute under R.S. Khata no. 31, Plot no. 352 alongwith other plots of Village Bariatu, P.S. Bariatu, P.S. No. 193, Dist. Ranchi was recorded in the R.S. record of right in the name of Bhikni Orain and others. The said Khata comes under Khewat no. 4/7 recorded in the name of Md. Mir Khan, Hayat

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8.2.21

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Mir Khan, Mansabdar Ishmail Khan and Ghaseet Khan the landlord of Village Bariatu.

The recorded tenant subsequently surrendered the land under Khata No.-31 to the landlord above named and after surrender the landlord took the land in his possession and became the absolute owner thereof. The land lord accepted the surrender of the land by the raiyat of Khata No. 31 and executed a Kabuliyat Patta being Deed No.-4720 dated 01.09.1945 with respect to the entire land of Khata No. 31 in favour of Chumna Oraon. Therefore after the execution of Kabuliyat, the above named land lord become the absolute owner over the land of Khata No, 31 and acquired valid, right, title and possession over the same. After the vesting of intermediary interest the above named land lords were recognized as the raiyat by the State and in a proceeding under section 5,6,7 of Bihar Land Reforms Acts vide case no. 808 R 08 of 1956-57 their names were entered in Tenant's Ledger and they started paying rent to the State. After the death of the then landlords, the land under Khata No. 31, Plot No. 352 of Village Bariatu was allotted to one Ismail Khan. The legal heirs and successors of said Ismail Khan through their constituted attorney jointly transferred the land under Khata No.-31, Plot No.-352 area 6 Katha of Village Bariatu in favour of Ravi Kant Pathak by virtue of registered deed of sale deed no.-9981 dated 25.08.1984. The said Ravi Kant Pathak thereafter got his name mutated vide Mutation Case No.- 192 R 27 of 1984-85. The said Ravi Kant Pathak died leaving behind his widow Manjula Pathak, transferred the land in question measuring an area of 2.47 decimal of land out of six Katha under Plot No. 352 of Village Bariatu, Thana No.- 193, Dist. Ranchi in favour of the petitioner Abhishek Kumar by virtue of registered deed of sale



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-: 3 :-

being Sale Deed No.-2894/2528 dated 25.04.2016

The petitioner Khushboo Kumari after purchasing the aforementioned land in question constructed Pucca residential house upon the same and has been residing therein with his family without any claim and hindrance whatsoever in any manner to the knowledge of all concern. The Learned Circle Officer without making physical verification of the land of the petitioner, has rejected the mutation application only on the ground that there is some defect of form "L". The Learned courts below without considering the documents brought on record has dismissed the appeal on the ground that the present petitioner has not filed any document with regard to surrender of the land by the recorded raiyat.

In reply, according to the Learned Government Pleader appearing on behalf of the State:-

According to Section 45 CNT Act, *Whenever a landlord grants a lease to a tenant, or tenders to a tenant a lease such as he is entitled to receive, the landlord shall be entitled to receive from such tenant a counterpart engagement in conformity with the terms of the lease.* It is apparent from Section 45 of the CNT Act that, a Kabuliyat/counterpart engagement is used to be executed by a raiyat/tenant in favour of landlord in conformation of the terms of settlement of any land made to him on lease. Hence the story that the landlord Mir Khan and Other accepted surrender and executed kabuliyat patta in favour of the raiyat Chumna Oraon is not tenable in the eyes of law and the aforesaid claim of the petitioner has no legs to stand.

Heard both the parties and on perusal of materials available on record, I find that, the kabuliyat brought on record does not



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suggest that the land in question was surrendered in favour of the then landlord. According Section 45 of the CNT Act, a Kabulyat/counterpart engagement is used to be executed by a raiyat/tenant in favour of landlord in conformation of the terms of settlement of any land made to him on lease. It is admitted fact that the land in question stands recorded in the name of member of Scheduled Tribe and nothing has been brought on record by the petitioner, which could suggest that the land would have been validly surrendered in favour of the then landlord. As per Section 46 (3) of the CNT Act, *No transfer of contravention of sub-section (1), shall be registered or shall be in any way recognised as valid by any Court, whatever in exercise, of civil, criminal or revenue jurisdiction.*

For the reasons aforementioned, I do not find any infirmity in the impugned order passed by the learned court belows. Hence this appeal is dismissed. The impugned order dated 16.08.2018 passed by Land Reform Deputy Collector, Sadar, Ranchi in Mutation Appeal Case No.-265 R 15/2017-18 is hereby upheld.

Communicate this order to Deputy Collector Land Reforms, Sadar, Ranchi for information and necessary action.

Dictated & Corrected

Deputy Commissioner

Ranchi

Deputy Commissioner
Ranchi