

केस का सं० ओर तारिख	आदेश ओर पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्रवाई के बारे में टिप्पणी, तारिख के साथ
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IN THE COURT OF THE DEPUTY COMMISSIONER, RANCHI  
Mutation Revision: 09 R 15/2020-21

11.01.2022

Narayan Badaike son of Late Teju Badaike, Resident of Village: Tumbagutu, Kocha Toli, P.S: Namkum, District: Ranchi Jharkhand  
.....Revision Petitioner

-Verses-


Dilip Kumar son of Pratap Badaike Singh, resident of, Village- Sidrol, Central School near khatal, New Press Colony, P.S: Namkum, District: Ranchi, Jharkhand. ... Respondent

ORDER

The instant revision has been preferred against the order dated 19.03.2020 passed by the Learned Deputy Collector Land Reforms, Sadar, Ranchi in Mutation Appeal No.- 307 R 15/2020-21, whereby the Learned Deputy Collector Land Reforms, Sadar, Ranchi allowed the appeal preferred by the present respondent after setting the order dated 18.02.2020 passed by the Learned Circle Officer Namkum Anchal in Mutation Case No.-6257 R 27/2019-20 rejecting the application for mutation preferred by the present respondent with respect of land appertaining to Khata No.-50, Plot No.-81 area 69.16 Decimals of Village Tumbagutu, Thana No.-301, District Ranchi.

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

The land appertaining to revisional survey khata no.50 comprising total area 9.33 acre is recorded in the name of Tejuwa Badaike and Gandura Badaike. The recorded tenant Tejuwa Badaike died leaving behind his only son Tahlu Badaike, who also died leaving behind his two sons Teju and Kishun. The said Kishun Badaike died issueless and Teju Badaike died leaving behind his two sons Narayan Badaike and Binand Badaike. Another recorded tenant Gandura Badaike died without any male issue accordingly entire property of khata no. 50 vested with Tahlu Badaike. In course of time on 12.11.2011 the father of the revision petitioner amicably partitioned the

  
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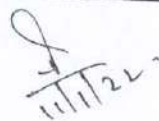
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2

land between his two sons namely Narayan Badaike and Binand Badaike in presence of Mukhia and several villagers, in which Binand Badaike also agreed and put his signature. It is clear from the said Batwaranama that Narayan Badaike / appellants was allotted plot nos.- 81 area 1.52 Acre, Plot No.- 82, area 0.44 Acre, Plot No.-208, area 0.64 Acre, Plot No.-209 area 0.87 Acre, Plot No.-11 area 0.50 Acre, i.e. measuring total area of 3.97 Acres, while the said Binand Badaike was allotted plot no.- 21, area 0.41 Acre, Plot No.-22, area 0.23 Acre, Plot No.- 23, area 0.03, Plot No.- 24, area 1.48 Acre, Plot No.-63 area 1.12 Acre, Plot No.-11 area 0.70 Acre i.e. measuring total area of 3.97 Acres. The said Batwara Nama has already been accepted by the said Nayaran Badaike/revision petitioner and Binand Badaike and has been acted upon by both of them. Binand Badaike has sold his almost entire share by different registered deed of sale. In all the deeds he has mentioned about the fact regarding amicable partition taken place between the appellant Narayan Badaike and Binand Badaike. Now the said Binand Badaike out of temptation and with malafide intention has illegally sold plot no.81 which was allotted to the appellants. The said land is in possession of the revision petitioner. The revision petitioner is exercising possession over the same by constructing house and boundary wall over the same. The said Binand Badaike has also filed a partition suit, being Partition Suit No.-191/2018 against the revision petitioner, which is pending before civil court Ranchi. In spite of the aforesaid facts, he during the pendency of the suit has illegally sold the disputed land falling in the share of the revision petitioner.

The learned court below has passed the impugned order in violation of the cardinal principal of natural justice. The impugned appeal was admitted on 26.02.2020 and a report was called by fixing the next date on 16.03.2020, but the said order was not complied with and the learned court below without receiving the report, has passed the impugned order without hearing the parties in a very hasty manner.

On the other hand according to the Learned Advocate appearing on behalf of the respondent:-

  
11/11/2020



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3

The revision petitioner has filed this application with ulterior motive only to harass the respondent. The recorded tenant Puran Badaike had two Sons Tejua Badaike and Gandura Badaike. The said Tejua Badaike had one son Tahlu Badaike. On the other hand Gandura Badaike had one daughter namely Bhurki Devi, W/o Ramratan Mahto and she was the sole co-sharer of half of the entire property left by her grandfather namely Puran Badaike. Tahlu Badaike had two sons Teju Badaike and Kishan Badaike. Kishan Badaike died issueless and the said Teju Badaike has two sons Narayan Badaike (Revision Petitioner) and Binand Badaike.

The aforesaid Bhurki Devi, who inherited half of the share died issueless, but before her death, she executed a gift deed with respect of her share in favour of both the sons of Teju Badaike namely Narayan Badaike ( Revision petitioner) and Binand Badaike vide Gift Deed No. 10069 dated 10.10.1988. The sons of Tejua Badaike, i.e. Narayan Badaike (Revision Petitioner) and Binand Badaike are the only surviving co-sharers of the entire property of Khata No.-50.

The Respondent has purchased the land measuring an area of 69.16 Decimals appertaining to Plot No.-81 vide registered deed of sale bearing sale deed No. 1072/1020 dated 24.05.2019 from the said Binand Bariak. He thereafter applied for Mutation vide Mutation case No. 6357 R27/2019-20, where the revision petitioner filed an objection by annexing the forged and fabricated unregistered Batwara Patra dated 14.11.2011. The learned Circle Officer erroneously rejected the said Mutation application by holding that the matter has already been disposed of previously.

Heard both the parties. On perusal of materials available on record, I find that, the concerned Halka Karamchari has reported that, the vendee i.e. respondent is exercising possession over the land in question. The Vendor of the respondent i.e. Binand Badaike is the son of Register II raiyat. Hence he had recommended for mutation. On the other hand, the revision petitioner has claimed that the vendor of the respondent i.e. Binand Bariak has illegally sold the land falling in his the share.

It is settled law that, possession over the land is supposed

  
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4

to be the main criteria for mutation. If a person acquires interest upon land from the Register II raiyat or from his legal heirs and successors, mutation cannot be denied. In a mutation proceeding, title, proprietary right, share of the parties upon the immovable property is not determined.

For the reasons aforementioned, I do not find any infirmity in the impugned order passed by the learned court below. Hence this revision is dismissed. The impugned order passed by the Learned DCLR, Sadar, Ranchi in Mutation Appeal No.- 307 R 15/2020-21 is hereby upheld.

Communicate this order to the Deputy Collector Land Reforms, Sadar, Ranchi for information and needful.

Dictated & Corrected

  
11/11/22

Deputy Commissioner  
Ranchi

  
11/11/22  
Deputy Commissioner  
Ranchi