

आदेश का
क्रम संख्या और
तारीख

आदेश और पदाधिकारी का हस्ताक्षर

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

11/10/2021

**IN THE COURT OF THE COMMISSIONER SOUTH
CHHOTANAGPUR DIVISION RANCHI**

MISC Revision 44/2017

Smt. Asha Ekka & Others

Vrs.

Basu Pahan & Others

MISC revision 44/2017 was filed Smt. Asha Ekka and Isidore Tirkey against Basu Pahan and Nirmal Pahan. Basu Pahan was substituted by his heirs on 17.12.2019. In this case the order of AC, Ranchi in appeal no 2R15/2010-11 was challenged.

The petitioners case is that sale deed was executed in their favour on 24.04.2010 for 1.28 acres of land in plot no 249 khata no 9 of village Malti P.s Namkom from Mahavir lakra and Chamra lakra in valuable consideration of money. The sellers put the petitioner in the possession of the land. The mutation of the said land was allowed by CO, Namkom and rent receipt issued up to the year 2017-18. A prior permission u/s 46 of CNT act was obtained from rent suit deputy collector vide case no 2024R8II/2008-09 on 16.10.2009 and sale deed was executed on 28.04.2010. There was no objection before rent suit deputy collector in that permission case. The petitioners were unaware of the orders passed by the AC and got 1st information about these orders from title suit 284/2011. After the execution of the sale deed the order of AC dtd 09.03.2011 has become infructuous. The land was partitioned among the heirs of

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	<p>recorded tenant and they separately came in possession of their part. The petitioners validly purchased the land from one of the co sharers from their own share. Thus the O.Ps have no right to challenge the sale but the petitioners are local residents of the village and have got local resident certificate as well as their name in the electoral rolls and electric connection. They are members of the ST community and thus no contravention of sec 46 was made. Some portion of the land was acquired for the ring road project where in petitioners were also paid compensation. Petitioners claim that AC should have considered the fact that the O.Ps were not the party before the rent suit deputy collector. The orders of the AC is contradictory and without giving any opportunity to defend themselves the final orders were passed. The petitioners are resident of the same police station and fulfils the criteria in sec 46(3) of CNT act. The petitioners have filed various documents to confirm their being resident of the same village.</p> <p>The O.P state that the permission for sale in respect of 1.28 acres of land was granted in gross violation of sec 46 of the CNT act as the petitioners are not the resident of Namkum but of the Chainpur district Gumla. No proof of resident was verified or examined by the court before granting the permission for sale. The O.Ps immediately filed appeal before the AC and vide order dtd. 26.02.2010 the AC passed a stay orders on the operation of lower courts order for the registration of the land. In spite of this the petitioners got the land registered on 28.04.2010. On this basis they also got the land mutated in their name. However the O.Ps filed revision before the court of DC, Ranchi who cancelled</p>	

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this mutation and also directed an enquiry against the then distcirt sub registrar and CO for willful act of disobedience. The petitioners do not come under the definition of resident as described in sec 46. Thus clearly this revision petition is fit to be rejected.

On perusal of records it is clear that the rent suit deputy collector did not issue notice to any person but to general villagers against the application for sale of land. The AC passed the stay order at the admission stage itself however the petitioners manage to get the land registered from the sub-registry office. The final order of AC was passed on 09.03.2011 where in it set aside the orders of the rent suit deputy collector on the ground that the land in question is a joint property and hence a single co sharer could not transfer the land to others also it was held that the purchasers and sellers are not residents of same PS as required under CNT act. The RS DC court did not enquire on the point of residece of the petitioners and permission was granted without examining this point. All the papers in support of his residence produced by the petitioner in this court are from the year 2018-19 and not from the year 2009 when the permission was granted. The petitioners have claimed that mutation was allowed but have conceied the fact this mutation was set aside by the court of DC in the year 2013. The petitioners also mentioned in para 8 about a civil suit for cancellation of the sale deed pending before the competent court of law however the fate of this suit is not known. From the perusal of the order of AC, Ranchi it is clear that it could not be conclusively proved that seller and purchaser are residents of the same PS. It is also clear that

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	<p>the land is a joint property holding and only one co sharer have sold it to the petitioners after obtaining a permission. There was no formal partition between the parties as is evident from the report of the CO in the appellate court. The RSDC court could have issued specific notices to the O.Ps who were co sharers of the land but instead the petitioners willfully did not make other co sharers of the land as a party in the permission case. The order of DC, Ranchi in the mutation division 3R15/2012-13 clearly shows a connivance in the registration of the sale deed and the subsequent mutation of the land. He has also ordered for proceeding against the sub-registrar and the CO. The petitioners did not disclose the orders of cancellation of the mutation in this court thus it can be held that petitioners have not come to this court with clean hands. The entire proceeding of RSDC court appears to be stage managed along with the subsequent acts of registration and mutation of the land. In spite of a clear stay order from AC Court which was communicated the registration was executed. Clearly there is no merit in this Revision and it is accordingly dismissed.</p> <p>DC, Ranchi is also directed to ensure that the order for proceedings against the delinquent officials has been taken to its logical conclusion.</p> <p>Dictated & Corrected</p> <p><i>W Kumar</i> 11/12/2014 Commissioner</p> <p><i>W Kumar</i> 11/12/2014 Commissioner</p>	