

आदेश का
क्रम संख्या और
तारीख

आदेश और पदाधिकारी का हस्ताक्षर

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

31/08//2021

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

SAR REVISION 101/2016
Vishnu Sahu Vrs. Sarita Tigga & Others

SAR REVISION 36/2016
Shrawan Kumar and Vijay Kumar
Vrs.
Sarita Tigg, Birsa Gari and others

SAR revision 36/2016 was filed by Shrawan Kumar and Vijay Kumar both sons of Gopi Sahu against Sarita Tigga, Birsa Gari and Ors. whereas, SAR Revision 101/2016 was filed by Vishnu Sahu and ors. Sarita tigga and others. In both these cases, order of the Deputy Commissioner Ranchi in SAR appeal 47 R 15/2012-13 has been challenged. Since, both the cases emerge from same appeal concerning the same parties, they were heard together with the consent of all the parties.

Special officer SAR in case no. 246 of 2006-07 had rejected the restoration petition filed by one Bir Mahato Lt. Laxman Mahato for land pertaining to khata no. 207, plot no. 1085 area 0.47 acres and plot no. 1086 area 0.43 acres total area .90 acre situated at village Argora, district Ranchi.

The gist of the facts of the case are that one Bir Mahato claiming himself as successor in interest of recorded raiyats Madho Mahato and Sukhi Mahato filed an application for restoration u/s 71 (A) of the CNT Act. The SAR case no. 246/2006-07 was registered and all the parties were noticed. In the SAR court, the occupants asserted about the transfer of land through Hukumnama and settlement by the zamindar. The land has been subsequently partitioned among the families and rooms were constructed on the said land along with digging of the wells. They also produced municipal holding tax receipts and the electricity connection details. Six persons who are respondents in both the cases, namely, Pahana Mahato, Madho Mahato, Tuma Mahato, Sarita Tigga, SachinTigga and Birsa Gari intervened in the SAR case claiming themselves to be legal heirs of the recorded tenants. The SAR court examined the witnesses and perused the evidence produced by both the parties. Shrawan Kumar and Vijay Kumar who are the petitioners of case no. 36/2016 claim the lands via gift deed from Gopi Sahu and also not mutated in their names vide mutation case no. 727 R 27/93-94. The SAR court came to the conclusion that the restoration claim has been filed by applicants and the interveners after expiry of 58 years and giving

आदेश का क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी, तारीख के साथ।
	<p>reference of various judicial pronouncements dismissed the restoration claim.</p> <p>Against this order, opposite parties went in appeal in the court of Deputy Commissioner Ranchi wherein, Deputy Commissioner examined the claims of both the parties and he concluded that the entire claim of the appellants of this case rests on sada Hukumnama of 1948. He also concluded that there was no substantial structure on the said land before 1969 when section 71 (A) of the CNT Act, came into force and thus he allowed the appeal restoring the lands to the tribal petitioners/interveners.</p> <p>In this court, both parties again raised the same issues and produced documents. While the petitioners argued about Hukumnama and settlement obtained long back and contended that there are substantial structures existing on these lands hence, they demand that this being a residential Chapparbandi land, cannot be restored to the tribal petitioners. In the SAR court, the witnesses have corroborated the claims of the petitioners. The sada Hukumnama and the settlement are admissible as collateral evidence and hence, cannot be just ignored. The jamabandi was earlier in the name of Raghunath Sahu and the jamabandi rent receipts were also filed. During mutation in 1993-94 also, there were no counter claims to the lands. The jamabandi of 60 decimals is still in the name of Raghunath Sahu and for the rest 30 decimal, is in the name of appellants. There are built up houses, wells and installed tube wells on the land in question. Appellants also produced photographs which show houses and tubewells on the land.</p> <p>Respondents on the other hand argue that the land in question was neither surrendered; nor settled as claimed by the appellants. The appellants have fraudulently dispossessed the tribal respondents. The land was transferred without obtaining necessary permission. SAR court calculated 58 years of time from 1948 and held the restoration petition as time barred. The petitioners have tried to produce additional evidence in the form of Photograph in the revisional court which is not permissible. The order of the Deputy Commissioner is correct and needs to be confirmed. The revision petitioner is relying on the surrender executed on 13.03.1946 and kabuliyat dated 5.11.1947. however, both these documents were never produced as exhibits in any court. The statement of witnesses in SAR Court certainly clarify about non-existence of any structure 40-45 years ago and original applicant Bir Mahato also denied about the surrender of land existence of temple etc. He also confirmed about the well dug by his father in 1962.</p> <p>On perusal of records, argument of both parties and written arguments submitted, it is clear that the claim of the petitioners is based on the kabuliyat</p>	

2
Wing

आदेश का
क्रम संख्या और
तारीख

आदेश और पदाधिकारी का हस्ताक्षर

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

dated 5.11.1947 followed by Hukumnama dated 10.02.1948 alleged to be executed by the then landlord. However, petitioners have produced a sada hukumnama and some rent receipts granted by the ex-landlord. Sada hukumnama cannot be relied upon as a conclusive evidence in itself. There is nothing on record to show that the land in question was validly surrendered, rent assessed and jamabandi created in the name of the petitioners during this long course of time. The chaukidaari receipts does not confirm about the occupancy of the same land. The land has been transferred by the petitioners through partition deed and gift deed and thus, the correction slip, rent receipt, municipal receipt all pertain to years 1993 and onwards. Thus, it cannot be concluded that there were substantive structures before the promulgation of Scheduled Area Regulation 1969. The report of circle officer in the lower court dated 12.03.2010 clears that khata no. 154 total land 4.47 acres has a running jamabandi in the name of recorded tenants Madho Mahato and Sukhi Mahato, which proves that the alleged Hukumnama and the surrendered deed were never acted upon and the original raiyats continued to pay the rent of the said land. Thus, it is clear that the land in question; which is a tribal raiyati land; was obtained by non-tribal occupants through fraudulent means and tribal raiyats were dispossessed from the said land which are part of khata no. 154. This entire khata having area of 4.47 acre is in the name of tribal raiyat. There is no reason to believe that only 90 decimal lands from this khata shall be surrendered to non-tribal occupants. Thus, there I agree with the findings of the appellate court and find no reason to interfere with the orders for restoration of the land passed by the appellate court. Petitioners have tried to produce additional evidence in revisional court in the form of photographs. However, these are recent ones and cannot be taken as evidence in their favour. Thus, this revision petitions are not maintainable and hence dismissed.

This case was heard on 9/02/2021 and was kept on order. However, due to covid pandemic complete lockdown was imposed and courts were non-functional for a long time. It appears that after the courts resumed functioning in June, the record was inadvertently not placed for orders. The petitioners pointed out about this record awaiting orders on 16.08.2021, after which it was retrieved and orders are being passed. Hence, the delay in order. Let the copy of order be delivered to both the parties and DC Ranchi for necessary action.

Dictated & Corrected

W. K. Misra
Commissioner

W. K. Misra
Commissioner