

आदेश का
क्रम संख्या और
तारीख

आदेश और पदाधिकारी का हस्ताक्षर

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

06/09/2021

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

SAR REVISION 24/2012

Gabru Singh & Others Vrs.V.Jaura Oraon & Others

SAR revision 24/2012 was filed by Gabru Singh and 11 others Vs. Jaura Oraon s/o Late Charwa Oraon challenging the order of DC Ranchi in SAR appeal 233-R-15/1998-99.

The instant case concerns with lands under khata no. 28 plot no. 462, 607, 608, 633, 657, 662, 678, 714 and 752, total area 8.02 acres, situated at village Koko, circle Chano. The opposite party filed SAR case no. 230 to 234/82-83 for restoration of this lands in the SAR courts. All these cases were amalgamated and heard as SAR case no. 232/81-82. In this case, an ex-parte order for restoration was passed. The petitioners preferred an appeal 9 R-15/92. The ADC Ranchi remanded the matter back to examine the orders passed by the competent civil courts and pass the fresh order. The SAR court again heard the matter as remanded and declined the restoration of land on the grounds of limitation and orders passed by the civil courts. Against these orders, an appeal was filed by Jarwa Oraon in the court of DC Ranchi, wherein, the DC allowed the appeal and ordered for restoration of the land to the tribal petitioners.

In this court, both the parties have again stated about various suits between them in various courts. Appellants argue that the title suits between the parties were not collusive but all were on contest. Since, 1937, till 1982, the matter has been deliberated upon in various civil courts. They argue that execution of the decree was denied by the Civil Court to the respondents. The appellate court and the respondents are using one particular paragraph of the Ld. Additional Judicial Commissioner's judgment which mentions about the transfer of land in violation of Act. However, the order has to be seen in its entirety and not a mere paragraph. Subsequent title suits between the parties have been abated and have gone up to the High Court in 1982. Once the respondent could not succeed in the High Court, they took recourse to land restoration case. It was not proper on the

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	<p>part of lower courts to examine the matter of land restoration once competent civil courts have decided the matter.</p> <p>Respondents argue that the entire claim of the petitioners is based on alleged surrender and rent auction purchase by the landlord. This very finding has been negated very clearly by the court of Ld. Additional Judicial Commissioner while hearing the appeal. This order of AJC was confirmed by the High Court too. The subsequent title suits got abated or were dismissed for default and were never contested on merit. The Civil Revision 288/1979 in the Hon'ble High Court was also dismissed which was not on merit but only on the point of default. Thus, these orders cannot confirm the title of the petitioners. The respondents have filed the copy of original khatiyā, rent receipts and court orders.</p> <p>On perusal of records and orders, it can be concluded that since 1937 to 1982, series of cases were instituted in the Civil Court by either parties. The first case instituted was the title suit, 219/37 wherein, Bhadwa Oraon and Charwa Oraon were declared as nearest agnates and came in possession over the suit land. Petitioners also claim rent suit case no, 2323-R 8 of 1941. A title suit no. 58/1953 was instituted by Mos. Champu Oraon and ors which was dismissed vide judgment and decree dated 19.05.1955. The aforesaid Champu Oraon and ors went in a title appeal 115/1955 wherein, Ld. first AJC of Ranchi set aside the decree and further pleased to pass the decree in favor of Champu Oraon and ors. The judgment passed by the Ld. first AJC has dealt with various issues and has clearly concluded that "the petitioners in the said title appeal succeeded in proving their possession over the suit land up to 1953". The court also goes on to question the role of landlords in grabbing this holding by rent suit case no. 323 of 1940-41; this suit was decreed ex party but was never executed. Hence, the claim of getting the land through auction sale via rent suit case gets nullified. The Hon'ble court has also held that the deed of surrender dated 13.01.1953 to be illegal and void as it was in contravention of the provisions of the CNT Act. Against the order of the first Judicial Commissioner, a second appeal was filed in the High Court no. 510 of 1957 by Baraik Raghunath Singh. Hon. High Court</p>

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vide judgment dated 19.03.1960 dismissed the appeal with costs. Thus, the orders and findings of the first AJC court stood confirmed. Mos. Champu filed an execution case no. 120 of 1957 which could not succeed in the learned court of the Munsif on technical grounds. After it was decided by the Ld. Munsif court that decree holders cannot recover possession of land unless and until the matter is decided in a regular suit, a separate title suit 178/62 was filed before the Munsif court. This suit was dismissed as abated on 27.08.1970. This order was challenged in appeal no. 37/70 which got dismissed for default. Another misc. case 18./78 filed for revival of this case was also dismissed. A civil revision 288 of 1979 before the High Court was also dismissed vide order dated 2.12.1982. Thus, it is clear that the said title suit 178/62 was never adjudicated on merits but was dismissed as abated. The appellate courts also heard the matters on the point of abatement of the case and revival of the case and not on the merits of the matter. Hence, this civil suit cannot be construed as order from the competent civil court in favor of either parties. Thus, the order passed by the first AJC, in title appeal 115/55, remains the sole order from competent court duly confirmed by the High Court. Thus, the tribal petitioners had every right to apply for restoration of their ancestral lands. The SAR courts dis-allowed the petition merely on the basis of orders passed in the TS 178 of 62 and subsequent appeals and civil revisions which only determine the matter about abatement of the case on default by parties. The appellate court has rightly examined all the orders of the civil courts and concluded that the tribal land has been transferred to non-tribals contravening the provisions of CNT Act. The said findings are also confirmed in title appeal 115/55 by the first AJC court and subsequently confirmed by the High Court in civil revision 510 of 57. Thus, there is no reason to interfere with the orders passed by the appellate court and this revision petition is accordingly dismissed.

Dictated & Corrected

W. K. Misra
6/14/207
Commissioner

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6/14/207
Commissioner