

आदेश का
क्रम संख्या और
तारीख

आदेश और पदाधिकारी का हस्ताक्षर

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

25/10/2021

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

Settlement appeal 51/52/53/54/55/56/57 of 2016

Radheshyam Sahu & Others

Vrs.

Lal Vijay Nath Sahdeo & Others

Settlement appeal 51/52/53/54/55/56/57 of 2016 were filed by Radheshyam Sahu, Mahavir sahu, Ramchander Sahu (53/54/55) Ghanshyam Sahu, Ramchandra Sahu & Bishun Sahu respectively against Lal Vijay Nath Sahdeo, Lal Uday Nath Sahdeo and Lal Dharendra Nath Sahdeo.

During the course of hearing petitioners in case no 52/2016 and 56/2016 were substituted by their legal heirs. In all these cases the matter pertains to same documents & comes against the same O.Ps who are represented by the same advocates. Thus all these matters were heard together and are being disposed through common orders.

In all these 7 cases the lands are located in mauja Kalse thana no 39 khata no 1 in various plots.

In case no 51/2016 the lands in plot no 327, 328, 329, 330, 331, 332 & 333 total area 16.78 acres is involved.

In case no 52/2016 plot no 266, 294 total area 1.5 acres is involved.

In case no 53/2016 plot no 297 area 1.46 acre is involved.

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आदेश का क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर गई कारवाई के बारे में टिप्पणी, तारीख के साथ।
	<p>In case no 54/2016 plot no 266 area 0.60 acres is involved.</p> <p>In case no 55/2016 plot no 287, 290, 289, 292 & 266 total area 1.86 acres is involved.</p> <p>In case no 56/2016 plot no 266 area 10.07 acres is involved.</p> <p>In case no 57/2016 plot no 266, 287, 294 & 296 total area 4.15 acres is involved.</p> <p>The jist of the matter is that these lands were recorded in original khatian as Majihas Malik Thakur Mahendra Nath Sahdeo. Vide deed no 488 dtd 26.07.1951 the said landlord transferred 327 acres of total land to his wife Savitri Kuwar as "Kharpose" or maintenance. The said Savitri Kuwar transferred the part of these lands to the petitioners through various registered deeds in the year 1975-76 and put the purchasers in the possession of the lands. The purchasers got the lands mutated in their names subsequently and have been paying the rents to the govt. continuously without any obstruction from any corner. The Settlement Officer in the appeal cases held that the transfer of the land by Savitri kuwar is against the provisions of Transfer of Property Act sec 6(d) as the lands were given only for maintenance. On this basis the orders of ASO were set aside and khatian was directed to be opened in the name of O.Ps.</p> <p>In this court both the parties argued their case on similar lines. The petitioners claim that Savitri Kuwar was the legal owner of the land who transferred the land through registered sale deeds to the appellants or their ancestors.</p>	



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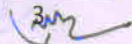
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After the transfer of these lands the rent was fixed and the new jamabandi was created in the names of the petitioners in the register-II. The Banda parcha was also issued in the names of the petitioners as they were in the peaceful possessions of the land. The matter was enquired by the ASO through surveyor two times where possession of the appellants was confirmed. Accordingly the ASO court directed for entries in the khatian. In spite of this the settlement officer allowed the claim of the O.Ps on the basis of provisions of Transfer of Property Act which was beyond his jurisdiction.

The respondents argued that the Savitri Kuwar had no right to transfer the lands in the favour of the petitioners. She was granted only a "kharpose" deed for 327 acres in different villages which was non transferrable. Thus she could enjoy the property only till her death but could not have transferred the property to anyone. Hence all the transactions made by her in favour of the present petitioners are wrong and they cannot acquire the title. Just by mutation of the land in the favor of the petitioners they cannot get the title. It seems that the purchasers are trying to grab the land of the O.P by using the fraudulent methods. The settlement court have held that the land has been transferred illegally and thus accordingly ordered for khatian entries in the name of the O.Ps.

From perusal of records and arguments it is clear that the landlord Thakur Mahendra Nath Sahdeo transferred the lands for Kharpose to his own wife Savitri Kuwar through registered sale deed in the year 1951. The lands were duly



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	<p>mutated in the name of Savitri Kuwar and form_M was also issued in her name. Rent was also assessed in her name. She transferred the lands through various sale deed in the year 75-76 to the petitioners for consideration amounts. After these transfer all the petitioners got the land mutated in their name and jamabandi created with rent assessed. The respondents who are objecting to the survey entries never objected to any of the mutation proceeding either in the name of Savitri kuwar or in the name of the purchasers. They also never challenged any sale deeds in a competent court which they claim to be in contravention of Transfer of Property Act sec. 6D. The ASO court got the local enquiry conducted through the surveyors and it was clear that the petitioners who were purchasers of the land were in possession. It is also clear that the O.Ps parted with the land in the year 1951 itself. The settlement officer has held that the deeds executed by Savitri Kuwar are not valid as they were against the provisions of Transfer of Property Act. However the O.Ps have never challenged any of these deeds for more that 30 years about the validity and raised the issued only in front of the Settlement officer. Clearly it was beyond the jurisdiction of the Settlement officer to interpret the provisions of Transfer of Property Act. The petitioners were found in the possession of the lands through all the stages of the survey and accordingly and their names were entered in the Banda parcha and the draft ROR. After more than 50 years since 1951 the O.Ps want to have the lands recorded in their names; when they are not in actual possession of the lands. The survey entries are to be made according to the possession. The ASO court was correct</p>	



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when it held and ordered the khatian entries in the name of the petitioners. Thus all these 7 appeals, 51 to 57/2016 are allowed and order of the settlement officer in survey appeal no 25/2014, 27/2014, 23/2014, 24/2014, 22/2014, 26/2014 & 28/2014 respectively are set aside. Copy of this order may be sent to the settlement officer for necessary action.

Dictated & Corrected.

W. K. Kaur
22/1/2016
Commissioner

W. K. Kaur
22/1/2016
Commissioner