

उपायुक्त – सह – जिला दण्डाधिकारी का न्यायालय, पूर्वी
सिंहभूम, जमशेदपुर।

S.A.R. Appeal No.- 54/2011-12

Applicant - Krishna Soren and Others four
- Vrs.-

Respondent/O.P. Pitamber Das and Others one

आदेश

1. यह S.A.R. Appeal आवेदन भूमि सुधार उप समाहर्ता का न्यायालय, घाटशिला द्वारा R.P. Case No.-2/2003-04 में दिनांक 25.07.2010 को पारित आदेश के विरुद्ध आवेदक Krishna Soren and Others four द्वारा दाखिल किया गया है। आवेदक Krishna Soren and Others four द्वारा अपील आवेदन में जिक्र किया गया है, कि "That the applicant/appellants filed one Case for restoration of possession bearing R.P. Case No.-2/2003-04 in the Court of S.D.M. Ghatsila for restoration of Lands of Mouza Banki, Revenue Thana No.-67, Old Khata No.-48, corresponding to new Khata No.-97, old plot no.-45 corresponding to new plot no.-853, Total area of old khata no. 0.14 Acres, according to 1937 final settlement of 1964, Total area of land 0.12 Acres. That the ground stated in the petition in the prescribed form by the applicants/appellants that their predecessor-in-interest was recorded tenant of the present disputed lands in the final survey settlement report of 1937 and was all along in cultivating possession of the same. After death of the predecessor-in-interest of the applicants/appellants the present appellant are along in possession till the year of dispossession by the Opp. parties/respondents which is in the year 1988. But due to wrong entry in the final 1964 settlement report in the name of opp. party they are falsely claiming the disputed land as their own lands. The appellants were remain in possession till the year 1988. The respondents dispossessed the appellants, illegally by forceful fraudulent method in the year 1988 from the present disputed land. The appellants are poor members of Schedule Tribes. They filed R.P. Case No.-2/2003-04 in the Court of S.D.M. Ghatsila."

2. S.A.R. Appeal आवेदन के GROUNDS में जिक्र किया गया है, कि "For that the impugned order passed by the L.R.D.C. Ghatsila not as Deputy Commissioner under the C.N.T. Act, therefore the order has got not legal value and cannot be sustained. For that the order is absolutely out come of non-application of mind. For that the order passed by the L.R.D.C. Ghatsila is absolutely illegal and cannot be sustained under law. For that the Ld. Court below failed to consider the case of the appellant and wrongly decided the case in favour of the Opp. party/respondents. For that the Ld. Court below failed to consider the document (viz Surey Settlement report of 1937). For that the Ld. court below failed to consider the case of the appellants who were dispossess in the year 1988 from the D.L. For that the Ld. court below passed order dated 25.7.2010 against the dead persons which is a nullity in the eye of law and cannot sustained in the eye of law.

The final order was passed on 25.7.2010 but the applicant Bhajohari Soren died on 7.8.2006 and Govinda Soren died on 28.1.2008, Therefore the order is illegal & cannot sustained. For that the Ld. Court below wrongly hold that the Opp. party are in continous possession since the year 1964. For that the order dated 25.7.2010 is purverse illegal and cannot sustained. For that the Ld. Court below failed to consider that the appellants were in continous possession over the disputed land till the year 1988.”

3. निम्न अदालत अभिलेख R.P. Case No.-2/2003-04 में दिनांक 25.07.2010 को पारित प्रश्नगत आदेश में उल्लेखित है कि “सर्वे खतियान में विपक्षी के नाम से दर्ज है। आवेदक का कोई दावा नहीं बनता है। अतः अंचल अधिकारी के प्रतिवेदन एवं कागजात के आधार पर आवेदक श्री भजहरि सोरेन वगैरह के आवेदन पत्र को अस्वीकृत किया जाता है।”

4. एस0ए0आर0 अपील आवेदन, निम्न अदालत अभिलेख एवं उसमें पारित प्रश्नगत आदेश, जाँच प्रतिवेदन, संबंधित राजस्व कर्मचारी का बयान, सम्पूर्ण अभिलेख उसमें उपलब्ध कागजातों संबंधित नियमों एवं प्रावधानों का अवलोकन किया, जिससे स्पष्ट है :-

(i) हाल सर्वे खतियान में विवादित भूमि खतियानी रैयत डोमन दास, पिता सदाशिव दास, (3 अंश) तथा पिताम्बर दास, पिता शशि भूषण दास (3 अंश), गोकुल दास, पिता डोमन दास (2 अंश) नाम से दर्ज है जो गैर आदिवासी है। अपीलार्थी द्वारा प्रश्नगत भूमि उनको हस्तारण के संबंध में कोई साक्ष्य नहीं दिया है।

(ii) Record of Right के लिए छोटानागपुर काश्तकारी अधिनियम की धारा-84 (1), (2) एवं (3) में यह प्रावधानित है, कि (1) “In any suit or other proceedings in which a record-of-rights prepared and published under this Chapter or a duly certified copy thereof or extract therefrom is produced, such record-of-rights shall be presumed to have been finally published unless such publication is expressly denied and a certificate, signed by the Revenue Officer, or by the deputy commissioner of any district in which its local area, estate or tenure or part thereof to which the record-of-rights relates is wholly or partly situate, stating that the record-of-rights has been finally published, under this Chapter shall be conclusive evidence of such publication. (2) The [State] Government may, by notification, declare with regard to any specified area, that a record-of-rights has been finally published for every village included in that area; and such notification shall be conclusive evidence of such publication. (3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry and shall be presumed to be correct until it is proved, by evidence, to be incorrect.”

उपरोक्त तथ्यों आलोक में निम्न न्यायालय द्वारा R.P. Case No.-2/2003-04 में दिनांक 25.07.2010 को पारित आदेश को यथावत रखते हुए अपील आवेदन खारिज किया जाता है।

विधि-व्यवस्था एवं अन्य आवश्यक कार्यों में व्यस्तता के कारण आदेश आज दिनांक 28.01.2016 को पारित किया जा रहा है।

लेखापित एवं संशोधित

उपायुक्त

पूर्वी सिंहभूम, जमशेदपुर।

उपायुक्त

पूर्वी सिंहभूम, जमशेदपुर।

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order
with LCA
C.R.P. Case No
2103-04 in
original to
DCL Rghatsh
vide memo
no-1223(LN
L dt 5/7/16