

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

Mutation Revision No. 25/2014-15
Smt. Kamala Ray -Vrs.- Mrs. Kamala Devi

दिनांक	आदेश	कार्यालय अनुपालन
	<p>यह Mutation Revision आवेदिका श्रीमती कमला राय द्वारा भूमि सुधार उप-समाहर्ता, घाटशिला द्वारा Mutation Appeal No.04/2013-14 में दिनांक 31.07.2014 को पारित आदेश के विरुद्ध दायर किया गया है।</p> <p>आवेदिका द्वारा दायर उक्त Revision आवेदन को स्वीकार करते हुए निम्न न्यायालय से अभिलेख की माँग की गई तथा विपक्षी को अपना पक्ष रखने हेतु नोटिस निर्गत किया गया। जिसके अनुपालन में भूमि सुधार उप-समाहर्ता, घाटशिला से मूल Mutation Appeal No. 04/2013-14 का अभिलेख प्राप्त हुआ तथा विपक्षी द्वारा दिनांक 16.05.2017 को कारणपृच्छा दायर किया गया।</p> <p>आवेदिका के द्वारा दायर रिविजन आवेदन में निम्नलिखित तथ्य उपस्थापित किया गया जो इस प्रकार है:-</p> <ol style="list-style-type: none">i. For that, regard being had to the facts and circumstances and the evidence on record, the learned lower court should have dismissed the appeal.ii. For that the learned lower court completely mis-directed itself in passing the aforesaid impugned order.iii. For that, the learned lower court had gone beyond his jurisdiction and gone beyond the mutation law and passing the said impugned order.iv. For that, the learned lower court without condoning the delay and without admitting the said appeal directly passed the final order which is wrong, erroneous and without jurisdiction.v. For that, the learned lower court should have held that the appeal filed by the appellant after a long period of 5 (five) years which is hopelessly barred by limitation and should have dismissed the said appeal limine.vi. For that, the learned lower court without appreciating the report submitted by the Anchal Karmachari, Ghatshila in Mutation case No. 513/2008-09, regarding possession of the present petitioner, which is main criteria of mutation of the land under mutation law has passed the impugned order.vii. For that, the learned lower court without considering the recital of the deed of the present petitioner and without considering the possession of the present petitioner over the proceeding land has passed the impugned order, is wrong and erroneous.viii. For that, the learned lower court has gone beyond his jurisdiction and has given a wrong findings that the joint purchaser no. 1 and 2 have equal share in the land in question in the mutation appeal.	

ix. For that, the findings of the learned court below that doctoring of possession of follow title is well recognized that rightful owner is not in actual physical possession in the eye of law be deemed to be in possession and the benefit of such presumption can accrue infavour of rightful owner but not in favour of wrong door, is wrong and erroneous.

x. For that, the learned court below has no scope to look into the title of the parties in mutation case or mutation appeal and the same is beyond the jurisdiction but the learned lower court has gone beyond his jurisdiction and passed the impunged order, which is wrong and erroneous.

xi. For that the impunged order passed by the larned court below to mutate equal half of the share of proceeding land infavour of appellant and respondent no. 1 is wrong and erroneous.

xii. For that, the order passed by the learned court below is full of conjunctures and surmises.

xiii. For that, the order of the learned lower court is otherwise bad in law and in liable to be set aside.

विपक्षी द्वारा दिनांक 16.05.2017 को प्रस्तुत कारणपृच्छा में आवेदिका द्वारा दायर Mutation Revision के विरुद्ध निम्नलिखित बिन्दुओं को उजागर किया गया—

1. That the Revision filed on behalf of the petitioner is bad-in-law as well as in fact.
2. That the Revision filed on behalf of the petitioner is liable to be set-aside in accordance with the provision laid-down U/s. 397/399 Cr. P.C.
3. That the Mutation Appeal no. 4 of 2013-14 passed by the L.R.D.C. Ghatshila is in accordance with law.
4. That the finding of the Mutation Appeal no.04 of 2013-14 was passed after proper accomplishment of law, evidence and law of mutation.
5. That the findings, the learned L.R.D.C. is embellished with law, evidence, mutation Act and natural Justice.
6. That as a matter of fact the land in question measuring 6 Dhurs 216 Sq. ft. equivalent to half decimal under Khata no. 235, Plot No. 959, Mouza powrah, Thana No. 12 was jointly purchased by Registered Sale Deed bearing No. 6698 dated 17-11-1989 by Raja Ram Ray, S/o Sahadev Ray, Ram Nath Ray S/o Sahadev Ray and Ashok Ray S/o Sahadev Ray.
7. That the above purchasers of the land are having equal shares in question after death of the common ancestors.
8. That in view of the above, the Appeal was allowed by the learned L.R.D.C. and the impugned order of the Circle officer, Ghatshila was set-aside.
9. That the learned Court of the L.R.D.C. with sine-qua-non findings set-aside the order of the Circle Officer and thereby ordered to mutate equal half of the shares i.e. 03 Dhurs or 108 Sq. ft. equivalent $\frac{1}{4}$ Decimal of the said land each in the favour of the opposite party and the petitioner and also learned Circle Officer was ordered by the learned L.R.D.C. to make necessary correction accordingly in relevant register.
10. That the order passed by the learned Court of the L.R.D.C. be effectuated in accordance with law of Mutation Act. Evidence Act and natural justice.
11. That the petition filed on behalf of the petitioner is misconstrued with fact and evidence.
12. That the Revision is filed in wrong forum and is not maintainable either in

law or in fact.

13. That the Revision filed on behalf of the petitioner is barred by the principles of estoppel.

14. That the petition of Revision filed on behalf of the petitioner is barred by the principles of waiver.

15. That the petition of Revision is barred by the Principles of Resjudicata U/s 11 C.P.C.

16. That the petition of Revision is barred by the principles of 300 Cr. P.C.

17. That the petition of Revision filed U/s 397 Cr. P.C. is barred by the principles of double jeopardy.

18. That the petition of Revision is barred by the principles of Article 20(1) of Constitution of India.

19. That the petition of Revision is barred by the principles of acquiscance.

20. That the petition of Revision under the above circumstances is void abinitio.

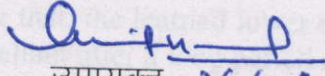
विपक्षी द्वारा कारणपृच्छा प्रस्तुत करने के उपरान्त उभय पक्षों को सुनवाई हेतु तिथि निर्धारित किया गया, परन्तु बारम्बार चेतावनी दिये जाने के बावजूद विपक्षी सुनवाई के दौरान अनुपस्थित रहने के कारण एकपक्षीय सुनवाई की गई।

आवेदिका के विज्ञ. अधिवक्ता को सुना तथा उनके द्वारा दायर रिविजन आवेदन, विपक्षी द्वारा प्रस्तुत कारणपृच्छा तथा निम्न न्यायालय द्वारा पारित आदेश एवं इस अभिलेख में उपलब्ध कागजातों का अवलोकन एवं अध्ययन किया। जिससे यह प्रतीत होता है कि अनुमण्डल पदाधिकारी, घाटशिला द्वारा पारित आदेश विस्तृत, तथ्यात्मक, नियमानुकूल एवं तर्कसंगत है।

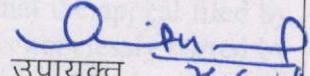
अतः सम्यक विचारोपरान्त अनुमण्डल पदाधिकारी, घाटशिला द्वारा पारित आदेश को यथावत रखते हुए आवेदिका द्वारा दायर Mutation Revision को अस्वीकृत किया जाता है। आदेश की प्रति आवश्यक कार्रवाई हेतु निम्न न्यायालय को भेजें।

विधि-व्यवस्था एवं अन्य कार्यों में व्यस्तता के कारण आदेश पूर्व में पारित नहीं किया जा सका।

संशोधित एवं लेखापित


उपायुक्त, 26.6.18

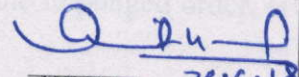
पूर्वी सिंहभूम, जमशेदपुर।


उपायुक्त, 26.6.18

पूर्वी सिंहभूम, जमशेदपुर।

ज्ञापांक- 1067(B) विधि, दिनांक- 26/6/2018

प्रतिलिपि- भूमि सुधार उप-समाहर्ता घाटशिला को आदेश की प्रति के साथ निम्न न्यायालय Mutation Appeal Case No. 04/2013-14 मूल रूप में आवश्यक कार्रवाई हेतु वापस किया जाता है।


उपायुक्त, 26.6.18

पूर्वी सिंहभूम, जमशेदपुर।