

उपायुक्त का न्यायालय, कोडरमा

गौतम सामंतो एवं 01 अन्य बनाम झारखण्ड राज्य

मिस्लेनियस केस नं०-23/ 2015

आदेश

04.2.17

आवेदक श्री गौतम सामंतो एवं 01 अन्य पिता स्व० रंजीत सामंतो, ग्राम-कानूनगोबिगहा, पोस्ट व थाना-कोडरमा, जिला-कोडरमा द्वारा यह वाद दायर किया गया है। आवेदन पत्र में अंकित है कि निम्नलिखित भूमि की रसीद उपायुक्त कोडरमा के ज्ञापांक 2620 दिनांक 29.09.2011 से बन्द की गई है। मालगुजारी रसीद आवेदक के पक्ष में निर्गत करने का आदेश अंचल अधिकारी, कोडरमा को देने का अनुरोध किया गया है। दाखिल खारीज के पश्चात् उक्त भूमि की मालगुजारी रसीद 2009-10 तक निर्गत है। भूमि का विवरण निम्नवत है:-

मौजा	थाना नं०	अंचल	खाता नं०	प्लॉट नं०	रकबा
कानूनगोबिगहा	274	कोडरमा	20	189	0.6768ए०
चाराडीह	270	कोडरमा	28	238	0.16ए०
चाराडीह	270	कोडरमा	11	233	0.10ए०
चाराडीह	270	कोडरमा	10	239	0.85ए०
कानूनगोबिगहा	274	कोडरमा	05	07	0.66ए०
कानूनगोबिगहा	274	कोडरमा	05	08	0.04ए०

आवेदक का कहना है कि,

1. That Gangadhar Samonta acquired the land of Khata no. 20, 28, 10, 11 through settlement vide case no. 275/31-32 dated 25-09-1931 and settlement case no. 161/36-37 dated 04-01-1936 in Mauza-Charadih and Mauza-Kanungobigha.
2. That after that Gangadhar Samonta sold and transferred the land of Khata no.20, Plot no. 189, area 1.05 acres, Mauza- Kanungobigha sold and transferred in favour of Ranjeet Samonta through sale deed no. 5399 dated 12-07-1977.
3. That Gangadhar Samonta sold and transferred the land of Khata no. 28, Plot no.238 area 16 dec. out of 96 dec. land of Mauza- Charadih in favour of Ranjeet Samonta through sale deed no.5399 dated 12-07-1977.
4. That Gangadhar Samonta sold and transferred the land of Khata no.11, Plot no. 233 area 10 dec.land of Mauza-Charadih in favour of Ranjeet Samonta through sale deed no. 5399 dated 12-07-1977.
5. That Gangadhar Samonta sold and transferred the land of Khata no.10, Plot no. 238 area 85 land of Mauza-Charadih in favour of Ranjeet Samonta through sale deed no. 5399 dated 12.07.1977. After getting his name mutated in register-II Ranjeet Samonta had been obtaining rent receipt regularly in his favour.



6. That the father of petitioner namely Ratanjeet Samonta purchased the land of Khata no. 05, Plot no. 07 and plot no. 8 area 66 dec. and 04 dec. respectively total area 70 dec. from Dhanukhi Singh and Daso Singh and Chhedi Singh all sons of Kali Singh and Ganeshi Singh S/o. Pathan Singh Mostt. Jiriya w/o. Karu Singh and Rushan Singh, Sanichar Singh and Bhola Singh all sons of Karu Singh vide sale deed no.12655 dated 29-04-1970. After getting his name mutated in regiser-II Ranjeet Samonta had been obtaining rent receipt regularly in his favour.
7. That in the mean time Ranjeet Samonta died leaving behind his two sons namely Gautam Samonta and Anand Samonta. After the death of their father they applied for issuance of rent receipt in their name but the then Deputy Commissioner, Koderma stopped the issuance of rent receipt vide memo no 2620 dated 29-09-2011.

विद्वान् सरकारी अधिवक्ता, कोडरमा द्वारा लिखित विधिक मंतव्य निम्नवत् है:-

1. That the land in question is also the Gair Mazurwa Land of the State Government and the land was given to the Petitioner for agricultural purpose but the Petitioners have contravened the conditions laid down and using the same in commercial & other purpose rather than agriculture use.
2. That the land in question is valuable property of state and when the Deputy Commissioner had stopped the grant of Rent Receipts then according to the section 215(5) of the Chhotanagpur Tenancy Act " All other orders under the provisions of this act shall be appealable to the Commissioner, if passed by the Deputy Commissioner or to any official specially empowered by the (State) Government to hear such appeal if passed by an officer exercising power of the Deputy Commissioner.
3. That where the Rent Receipt was ordered to stopped by the then Deputy Commissioner the appeal shall be lie in the Court of Commissioner then the appeal shall be lie in the Court of Commissioner or Hon'ble High Court.
4. That the instant case is not applicable here hence the case hit the jurisdiction and legally not maintainable here.
5. That some petitioner have shown some sale deed in which the executants are coming under the purview of prohibited caste as per section 46 (1) of the CNT Act as in the case of Biddut Kumar Chatterjee, he has shown that the Sukar Chamar sold the land to Srijeet Samonta but permission u/s. 46 (1) of the CNT Act has not been shown.

6. That there is also suspicion in the case of Sujit Samonta as the sale deed shown by Sujit Samonta in which the executants is his son and what was the necessity for a son which compelled to sale the land to his father.
7. That for the sake of justice, it is highly essential to dismiss the petition of the petitioners.

अभिलेख में संलग्न कागजातों का अवलोकन किया गया। दोनों पक्षों के विद्वान अधिवक्ताओं को सुना। उपरोक्त वाद उपायुक्त, कोडरमा द्वारा दिनांक 29-9-2011 को पारित आदेश को vacate या withdrawn करने के लिए दाखिल किया गया है। चूंकि यह आदेश उपायुक्त द्वारा ही निर्गत किया गया था। अतः यह न्यायालय इस आदेश के vacate करने या withdrawn करने के लिए सक्षम नहीं है।

अतः श्री गौतम सामंतो एवं 01 अन्य पिता स्व० रंजीत सामंतो, ग्राम-कानूनगोबिगहा, पोस्ट व थाना-कोडरमा, जिला-कोडरमा के आवेदन को खारीज किया जाता है। आवेदक सक्षम न्यायालय में अपील दायर कर सकते हैं।

लेखापित एवं संशोधित

उपायुक्त, कोडरमा।



उपायुक्त
कोडरमा।