

Order No.  
& date

Order & signature of the Officer

Comments & the  
action taken on  
the order with  
date

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07-02-2020

**COURT OF DEPUTY COMMISSIONER,  
SERAIKELLA-KHARSAWAN**

**ORDER**

**Mut. Rev. No. – 25/2018-19**

**Anil Paswan & Ors. Vrs. Anil Garg & Ors.**

This revision has been preferred in this court by 1. Sri Anil Paswan, S/o Shivnath Paswan and 2. Smt. Kishori Devi, W/o Anil Paswan, both residents of vill + P.O. – Kapali, P.S. – Chandil, Dist – Seraikella-Kharsawan, against the order dated 08.12.2018 passed by the L.R.D.C. Chandil in Mut. Appeal no. 12/2017-18. Accordingly lower court record is called for and notice has been issued to the respondents and after receiving the said notice respondent appeared before this court through their Learned Counsel.

Heard the parties and perused the materials placed on the record.

The Learned Counsel on behalf of the appellant submitted that the present respondents as applicant filed mutation case no. 370 2015-16 before the office of Circle Officer, Chandil for mutation of their alleged purchased land vide registered sale deed no. 1783, dated 14.05.2012 with respect to the land measuring 2.14 acres in mouza Kapali, Khata no. 181, Plot no. 161, 162, 163 and 167. In the said mutation case report was called for and after hearing the Circle Officer, Chandil pleased to reject the mutation application of the respondents. Against the said order respondents filed mutation appeal no. 12/2017-18 in the court of L.R.D.C. Chandil, whereby hurriedly without

appreciating the facts and legal consequences the L.R.D.C, Chandil allowed the appeal petition and directed the Circle Officer, Chandil to mutate the land in favour of respondents. The order passed by the Learned lower court is bad in law and against the statute made under section 46 of C.N.T Act.

It is also submitted that mutation case no. 371/2015-16 for sale deed no. 2063, dated 02.06.2015 with respect to land of Khata no. 199 and 200 of mouza Kapali was rejected by Circle Officer, Chandil and against the said rejection order respondents filed mutation appeal no. 13/2017-18 and the same was rejected by L.R.D.C. Chandil. Similarly mutation case no. 369 2015-16 for sale deed no. 1012. dated 26.03.2012 with respect to land of Khata no. 438 of mouza Kapali was rejected by Circle Officer, Chandil and against the said rejection order respondents filed mutation appeal no. 14 2017-18 and after hearing the same was also rejected by L.R.D.C. Chandil. For that it is really astonishing that the same court in the similar facts rejecting two appeals and allowing the other one.

Further it is submitted that the appellate court below believing that the intervenor is one of the witness but Learned court below has not taken into consideration that the identifier Anil Paswan is son of vendor and he is paswan (dusadh) in caste which belongs to schedule caste. For that the vendor actually belongs to dusadh caste and barred under section 46 of C.N.T Act to transfer any land without prior permission as envisaged in law. Furthermore it is also submitted that the respondents never came in possession over their purchased land which is a basis of any mutation. Therefore it is prayed by the appellant side to

allow the revision petition and set aside the order passed by the Learned lower court.

On the other hand the Learned Counsel on behalf of the respondents appeared before the court and submitted that the present revision petition is not maintainable either in fact or in law. As per the record of rights prepared the raiyat of Khata no. 181 are mentioned as Dewati Devi, W/o Shivnath Yadav caste Gwala and caste Gwala comes under general category. The respondents have purchased the entire land through registered sale deed no. 1783, dated 14.05.2012 of Khata no. 181 from the original Khatadar Dewati Devi, W/o Late Shivnath Yadav after giving the full consideration amount and petitioner no. 1 Anil Paswan was the identifier and witness no. 1 in the aforesaid sale deed. Therefore it is prayed by the respondent side to reject the present revision petition.

On perusal of the documents placed in record it is revealed that the order passed by the L.R.D.C, Chandil is on the basis that vendor's caste as mentioned in the sale deed is Gwala and hence she can sell her land to the respondents and in this transfer of property there is no violation of section 46 of C.N.T Act. Further another finding in L.R.D.C. Chandil's order is that the appellant no. 1 Anil Paswan is the Identifier and witness no. 1 in the sale deed and hence his objection in the mutation proceeding is not at all maintainable.

Circle Officer, Chandil in his report vide letter no. 62, dated 22.01.2020 submitted that the caste of seller Dewati Devi, W/o Shivnath Yadav is mentioned as Gwala according to the revenue records. Further Circle Officer, Chandil has also submitted that over the

said plots some houses, hotels, boundary walls, etc. were constructed whereas some of the plots are fallow land. It is also revealed from the villagers that the houses are of descendents of the Khatiyani raiyat.

Considering the submissions made by the parties and on perusal of the documents this case is remanded back to the lower court of L.R.D.C. Chandil to hear the matter afresh on the point of caste, parentage of the vendor and possession over the land and pass reasoned order as per law in conformity with the related legislation and hence the case is disposed off in terms of the above observations and directions.

Dictated & Verified

  
Deputy Commissioner  
Seraikella-Kharsawan

  
Deputy Commissioner  
Seraikella-Kharsawan