

In the court of the Land Reform Deputy Collector, Sadar at Chaibasa

Mutation Appeal no. 5 Of 2018-19

Suman Kumar Biruly

- Appellant

Versus

The Circle Officer, Tantt Nagar & others

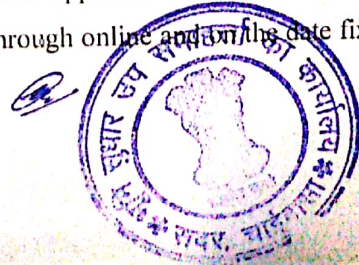
- Respondents

ORDER

This mutation appeal has been filed by the appellant Suman Kumar Biruli against the order dated 3.11.2018 passed by the Circle Officer, Tantt Nagar in Mutation case no.2 of 2018-19, wherein and whereunder the learned Circle Officer has rejected the mutation application filed by the appellant.

This court has issued General Notice to all concerned and called for a report from the Circle Officer, Tantt Nagar. No objection has been filed by any one and the Circle Officer has submitted service report of the aforesaid General Notice by his letter no. 41 dated 30.1.2019 and send the L.C.R. by his letter no. 70 dated 20.2.2019. During pendency of this appeal, private respondent Narayan Biruly died on 26.1.2019 and his wife Lalita Biruly has been substituted on the prayed of the appellant dated 31.1.2019. The successors-in-interest Thirthraj Biruly and 5 others have filed a No-objection petition dated 23.4.2019 supported with Affidavit in this appeal with a prayer to allow the mutation appeal in favour of the appellant.

Heard the learned lawyers of the appellant and concerned private parties, and perused the relevant papers and documents available in the record. It appears from the memo of appeal filed by the appellant that in a family settlement in village Panchayat, the land-in-question bearing portion of plot no.3041, measuring 35 decimals under khata no. 292 of Tantt Nagar has been fallen in the share of the appellant, and in support of his submission has submitted photocopy of Khatiyan, Rent Receipt, Partition Award and Kursinama. The appellant has filed a mutation application before the Circle Officer, Tantt Nagar through online and on the date fixed



for hearing i.e. 3.11.2018, he could not appear before the Circle Officer due to his illness and on 26.12.2018 the appellant went to the office of the Circle Officer, he learnt that his mutation application has been rejected without any information or hearing, and being aggrieved by the aforesaid order, he has filed this appeal in this court.

On perusal of the aforesaid documents filed by the appellant and aforesaid no-objection petition filed by the concerned private respondents, it appears that the lands under khata no. 292 of mouza Tantnagar is recorded in the names of Manatma Ho and Lanka Ho both sons of Naran Ho in the record of right published during current Survey & Settlement. Recorded raiyat Manatma Ho died leaving behind his three sons namely Suman Kumar Biruly (Appellant) Thirth Raj Birily and Rabinndra Biruly whereas recorded raiyat Lanka Ho died leaving behind four sons namely Man Mohan Biruly, Narayan Biruly, Singrai Biruly and Manoj Kumar Biruly and recently the said Narayan Biruly died leaving behind his wife namely Lalita Biruly. The land-in-question plot no.3041 has been divided into two share and one share measuring 35 decimals have been allotted to the abovenamed three sons of Manatma Ho including the appellant, whereas another half share has been allotted to the share of aforesaid four sons of Lanka Ho in a family settlement by Award dated 13.12.2018 prepared and issued by two Manki and one village Munda under Wilkinson's Rules. At this juncture, it is pertinent to mention that the sons of abovenamed Manatma Ho have been allotted total land measuring 1.07 decimals of four plots including plot no.3041 in the aforesaid Award and thereafter abovenamed three sons have again mutually settled and partitioned their land and 35 decimals of plot no. 3041 of mouza Tantnagar fell to exclusive share of the appellant..

It appears from the impugned order that the circle Officer has passed the impugned order on the date fixed for hearing on which date the appellant could not appear due his illness. The aforesaid impugned order has been passed without giving the petitioner/appellant reasonable opportunity of hearing. However it is also apparent from the aforesaid letter no. 70 dated 20.2.2019 of the Circle Officer, material documents were available in the L.C.R. It is also apparent that subsequently




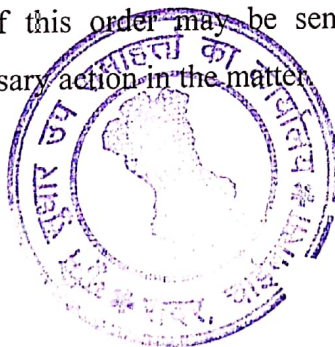
the land-in-question i.e 35 decimals of plot no.3041 fell to the share of the appellant in a mutual family settlement.


I find that none of the villagers has any objection in respect of mutation of aforesaid land measuring 35 decimals in favour of the appellant and the concerned abovenamed persons who are heirs and successors of recorded raiyats, have filed a no-objection petition in this court supported with Affidavit with a prayer to mutate the said land in favour of the appellant. The learned lawyers of the appellant has submitted that it is a fit case in which mutation appeal may be allowed with a direction to the Circle Officer, Tantanagar to mutate the said land in the name of the appellant and correction slip may be issued. The learned lawyer of the other co-sharers supported the submissions made on behalf of the appellant.

In view of the aforesaid facts and circumstances I hold that the mutation appeal filed by the appellant is liable to be allowed and this appeal is allowed with a direction to mutate the said land measuring 35 decimals of plot no.3041 under khata no.292 of mouza Tantanagar in the name of appellant Suman Kumar Biruly and to issue a correction slip by amending the Register II of the Anchal.

With the above direction, this appeal is allowed and this appeal is disposed of today. Let a copy of this order may be sent to the Circle Officer, Tantanagar immediately for necessary action in the matter.

Dictated by me

L.R.D.C. Sadar
Chaibasa




L.R.D.C. Sadar
Chaibasa