

In The Court of Deputy Commissioner, Ramgarh

Misc. Appeal No. 57/07

Rameshwar Agrawal Versus Shankar Lal Agrawal others

Order

27.8.13

The rehearing of the present appeal has been caused by the order of the Commissioner, North Chotanagpur in Revision Case No. 22/2009 passed on 24-07-2012 directing the present court to pass order after examining Mutation Case No. 488/94-95, 488/95-96, 1148/04-05.

The original dispute arose out of the mutation of Radha Devi w/o Shankar Lal Agrawal in Case No. 488/94-95 by which the Anchal Adhikari, Mandu is alleged to have mutated the following land :-

Village	Khata	Plot	Area	Vendor	Vendee
Kuju	67	1841	2.05 Acre	Sri Ram Sharma	Radha Devi

Subsequently Misc. Case No. 14/06-07 was heard by the SDO, Ramgarh on the application of Rameshwar Agrawal. In his order dated 22-05-2007 the learned SDM rejected the case. The aggrieved party moved the court of the DC, Ramgarh with the Registered Case No. 57/2007. The Deputy Commissioner, quashed the order of the SDM and cancelled the jamabandi of Radha Devi and her offshoots. The fate of the subsequent case filed in the court of the Commissioner is well known and stated above.

The counsel for Revisionist (Rameshwar Agrawal) said that it is undisputed that Sri Ram Sharma had originally purchased the above land from recorded tenants and got his name mutated. But the original mutation in the name of Sri Ram Sharma was only for 1.77 acres of land within Plot No. 1841 later Sri Ram Sharma sold the land in 1977 to Jamuna Das, Shailesh Kumar, Bipin Kumar and other through registered sale deed. It is said that the purchasers did not get their names mutated but entered into oral agreement in 1982 for transferring 95 decimals each to Rameshwar Lal Agrawal and Shankar Lal Agrawal. It is added that consideration money was paid but deed could not be executed. Further more, both the

parties entered into written agreement on 13.01.2006 where in they partitioned the said land by accepting the share of 91.6 decimals each with a passcige of 6.8 decimals. In the same year, Rameshwar Prasad Agrawal purchased the same land through 3 different deeds in following manner :-

Sl.No.	Vendor	Vendee	Sale Year	Khata	Plot	Area
1.	Yamuna Das	R.P. Agrawal	06-07-2006	67	1841	40 dec.
2.	Shailesh Kumar	R.P. Agrawal	06-07-2006	67	1841	20 dec.
3.	Bipin Kumar	R.P. Agrawal	06-07-2006	67	1841	20 dec.

The above lands were purchased but Rameshwar Prasad Agrawal did not get them mutated. It was further pleaded that Radha Devi fraudulently got her name mutated in the jamanbandi of Sri Ram Sharma though no actual mutation order was passed by the Circle Officer, Mandu. The main stand taken by the counsel for the first party is that Radha Devi has no sale deed or any transfer document without which mutation cannot be allowed. Later Radha Devi also transferred 60 deciamals to her son Rajesh Agrawal whose name was mutated.

The counsel for the respondent agrued that the disputed land was sold by Sri Ram Sharma in 1975 to Radha Devi. After the said transfer she got the posesion and applied for mutation (488/94-95) which was allowed. Her jamanbadi was inserted in place of Sri Ram Sharma. Accordingly correction slip was issued and even rent receipts were issued. The learned counsel also referred to another Case No. 488/95-96 in the name of Surendar Kaur and added that her case no. was wrongly quoted as 488/94-95. It was further added that Radha Devi transferred 60 decimals of land to Rajesh Agrawal. Case No. 1148 of 2004-05 (record attached) shows that name of Rajesh Kumar Agrawal was mutated by the C.O. Mandu on 28-03-2005.

From perusal of section 14 of the Bihar Tenants' Holding (Maintenance of Records) Act, 1973, it is apparent that the Circle Officer is required to give notice to the person whose name is running in the revenue record and also general notice inviting objections. On receipt of objection, The C.O. shall give opportunity to the parties to adduce evidence for the purpose of ascertaining which of the claimant for the occupation of the properly may be put in occupation of

it with great confidence for the recovery of revenue being made feasible.

Section 15 and 16 lays down the provisions of Appeal and Revision against the order passed by the Circle Officer. But the applicant Rameshwar Prasad Agrawal filed a Cancellation of Jamabandi case in the Court of SDM, Ramgarh (14/2006-07) which was rightly rejected because the Act, under which mutation is done, has no provision of cancellation.

It is a well settled law that creation of Jamabandi does not create any right and title in favour of one or other nor cancellation of jamanbandi extinguishes the right and title of the person who has valid right and title over the land. It is made taking into consideration possession of a person over the land. The person in whose name jamabandi is created only becomes entitled to pay the rent, name having been recorded in Register-II.

In the present case, the petitioner has challenged the jamabandi on the basis that Radha Devi has no deed and also claimed that both the parties have equal shares of 91.6 decimals over disputed plot no. 1841. A written agreement of 13-01-2006 has been referred to prove equal shares in the land. But any revenue court cannot make any declaration of right and title nor can declare a plain sale deed as illegal or inoperative. Such declaration can only be made by a competent Civil Court.

The reports sent by the Circle Officer, Mandu have confirmed that page 58 of Vol. II of Register II contains the name of Radha Devi w/o Shankar Lal Agrawal with Mutation Case No. 488 of 94-95. The Register 27 of the Anchal was produced on 19-08-2013 by the Circle Officer, Mandu. Page No. 147 of the Register 27 showed the name of Radha Devi and details of land are the same as written in Register II. It is also subsequently confirmed by Memo No. 1237 dated 23-08-2013 of the Circle Officer, Mandu who has enclosed a Xerox copy of Register-27. But the present conclusion is based on fact without going into the merit of entry in the Jamanbandi.

More importantly the petitioner of the present case had applied for mutation of his purchased land for the same plot vide mutation case nos. 400/10-11, 401/10-11, 402/10-11

for an area of 40, 20 and 20 decimals respectively but they were rejected. No appeal was filed under section 15 of the Act. Instead Rameshwar Agrawal is contesting a case of cancellation of jamabandi for which there is no provision in the said law.

In view of the aforesaid findings, it is concluded that the present court is not competent to decide right and title. The petitioner has tried hands both for cancellation and mutation but succeeded in neither. The case for cancellation is not provided under the mutation law and as such to same is disallowed.

Written and Corrected by

Deputy Commissioner,
Ramgarh.

Deputy Commissioner,
Ramgarh.