

# In The Court of Deputy Commissioner, Ramgarh

Restoration Appeal No. 155/08

Chedi Munda & others Versus Lalu Prasad & others

## Order

This is case remanded by the Commissioner, North Chotanagpur Division vide order dated 21.06.11 wherein a direction was given to consider the Appeal Case No. 155/08 in the light of order passed by the Additional Collector in Case No. 31/87.

It appears from the order of the Additional Collector, Hazaribag that he had set aside the order of the Lower Court dated 13.03.87 pertaining to the following land:

<u>Village</u>	<u>Khata</u>	<u>Plot</u>	<u>Area</u>
Chakrabali	19	150	23 Dec.
		160	16 Dec.
		174	21 dec.
		195	38 dec

The Court of the Additional Collector held that the respondents were dispossed from the disputed land for more than 12 years since 1971 (the date of Gift) and as such could not be entertained u/s 46(4A).

Another case was filed having No. 60/06-07 by Chedi Munda for restoration of 73 dec. under Plot No. 150 and 16 dec, in Plot no. 160. But the Court of the DCLR, Ramgarh rejected the case on grounds of '*Res judicata*' and time-bareed (more than 12 years).

The Court of the Deputy Commissioner, Ramgarh in its order dated 22.02.11 quashed the order of the Lower Court and passed the order of restoration. But the learned Commissioner has remanded the case to decide on the point of '*Res judicata*'.

The basic idea in the rule of '*Res judicata*' means that no man should be vexed twice over the same course of action. For the application of the Rule of '*Res judicata*', there must be adjudication of the issue in the earlier suit or proceeding between the same parties.

Considering the order of the Additional Collector, Hazaribag the Appeal was contested between Bina Kumari and Chedi Munda whereas in the Case No. 60/06-07, the restoration

petition was filed by Chedi Munda and Laldeo Munda against Lalu Prasad, Prithvi Prasad S/o Nageshwar Prasad and Prem Prasad S/o Late Amar Prasad & Others. The only difference between the two cases being the area of Plot No. 150 which was 73 dec. in DCLR Court and 23 dec. in the Court of Additional Collector.

The present Court has already held that all the terms and conditions were not fulfilled at the time of so called surrender in 1934. There is no reason to disagree with the above said observation of the previous Presiding Officer.

But '*Res judicata*' well apply to only 16 dec. under Plot No. 160 and 23 dec. under Plot No. 150. The present Appeal is on 73 dec. of Plot No. 150 and 16 dec. on Plot No. 160. 50 decimals of land under Plot No. 150 has been donated for a Health Sub Centre and hence only 23 decimals are vacant which should be restored to the Appellant. It is supposed that the respondents have donated their own share & not that of the Appellant.

To that extent order is modified and 23 dec. of land under Plot No. 150 is restored. Appeal Partially allowed. C.O., Gola is directed to deliver possession and enter the name of the Appellant in Tenant's Ledger. Compliance of the order to be reported within one fortnight.

Written and Corrected by

Deputy Commissioner,  
Ramgarh.

Deputy Commissioner,  
Ramgarh.