

In The Court of Deputy Commissioner, Ramgarh

Miscellaneous Appeal No. 06/2009

Yadunandan Budhiya Versus Bimal Kumar Poddar & others

Order

26-11-13

The present case is directed against an order dated 05-12-2008 passed by the L.R.D.C. Ramgarh in CRR Case No. 09/07-08. The disputed land is as follows :-

Anchal	Village	Khata	Plot	Area (Acre)	Total Area
Gola	Raipura	13	508	0.90	
			190	0.36	
			474	0.15	
			705	0.56	
			747	0.33	
			714	0.58	
			1084	1.49	
					4.37 Acres

The Appellant has claimed that the disputed land was purchased by Laxmi Narain Seth (Father of Appellant) on 04-05-1939 from Ganga Sagar Poddar. It is also said that the property was purchased in auction sale on 10th Oct. 1934 by Babu Charan Ram. It was Babu Charan who had sold the land to the predecessor-in-interest of the Appellant in 1936.

Briefly the case of the respondent states that Khata No. 13 within Khewat No. 2/4 and 2/1 was recorded in the name of Poddar obtained settlement of Khata No. 13 Plot Nos. 508, 474, 705, 747, 714, 1084 total area 4.37 acres. It is added that a hukumnama was granted in the name of Prahlad Poddar by fixing annual rent. The latter paid rent to the ex-landlord and after vesting to the state. Bimal Kumar Poddar later executed registered sale deed in favour of the vendees and their names had been mutated.

The present case was declared ex-parte on 16-08-2013 due to non-appearance of the respondent. The argument on behalf of the Appellant was heard. The learned counsel pleaded that the Appellant paid land revenue to the State from 1954 to 2007 whereas Bimal Poddar paid only for the period 63-64 to 5-06. It is also pointed that the the lower court did not consider the order passed in Money Suit No. 241/1925 and 536/1993 and the certificate of sale.

A perusal of the order of the lower court shows that the entire order is based on conclusion related to right, title and interest which is not a jurisdiction of revenue court. Right of transferor has been decided but the lower court failed to go into the details of jamabandi.

All the documents and reports available in present and lower court records indicate that jamabandis existed in the name of both the appellant and the respondent. Jamabandi is created either by mutation or by the fixation of rent but the court has failed to give a finding on the authenticity of both the jamabandis. In the case one jamabandi has to be eliminated, the issue must be sent to the Deputy Commissioner.

In view of the facts mentioned above, the order of the D.C.L.R. Ramgarh is quashed and remanded back for a fresh hearing in order to make recommendation regarding jamabandi. Appeal is allowed.

Written and Corrected by

Deputy Commissioner,
Ramgarh.

Deputy Commissioner,
Ramgarh.