

## In The Court of Deputy Commissioner, Ramgarh

Mutation Revision No. 23/2012

Muneshwar Ravidas Versus Jitendra Ravidas & others

### Order

19-11-13

This revision is directed against the order dated 18-07-2012 passed in Mutation Appeal Case No. 2/2011-12 whereby the Land Reforms Deputy Collector, Ramgarh remanded the case to the Circle Officer and pass necessary orders in the light of Title Case No. 58/2011.

The revisionist claim all right, title and possession over the land of Khata No. 38, Plot No. 370, 371 area 21 decimals. His further claim is that the sale made by Bhola Ravidas to the extent of 7.62 decimal is forged in the light of Title Suit pending in the Civil Court.

The case of the respondent is that Bhola Ravidas son of Chutar Ravidas executed a sale deed on 4<sup>th</sup> February 2011 in favour of Jitendra Ravidas for 7.62 decimals of land under Khata No. 38. Land was later mutated in the name of Jitendra Ravidas and rent receipt has been issued by the Halka karmachari.

Both the parties have claimed right and title over the land on the basis of succession claiming themselves to be descendants of the recorded tenant Karu Mahto son of Lahu Mahto (Chamar). Karu had four sons namely a) Lahu Chamar, b) Sitan Chamar, c) Jagarnath Chamar and d) Tipu alias Babulal Chamar. The revisionist is a descendant of Jagarnath whereas the respondent is a successor of Sitan Chamar.

It is significant to note that a Case No. 30/11 under section 144 of the Cr. P.C. was filed by Jitendra Ravidas over the same land. The learned SDO, Ramgarh in his order dated 16-04-2011 observed that, "उपर्युक्त तथ्यों के विवेचन से यह स्पष्ट है कि प्रश्नगत भूमि के बावत मामला सक्षम न्यायालय में स्वत्व वाद संख्या 58/11 लंबित है। ऐसी स्थिति में इस वाद में किसी प्रकार का प्रभावकारी आदेश पारित करना न्यायोचित नहीं है। अतः इस वाद की कार्यवाही बिना किसी प्रभावकारी आदेश के समाप्त की जाती है।"

The Halka Karmachari has significantly not confirmed the possession of the respondent in his report on mutation which is follows :-

“नामांतरण जांचा बिक्रेता के परदादा जमाबन्दी रैयत है। भूमि रैयती खाते की पक्षकारों के सूचना के पश्चात् लगान वसूली के दृष्टिकोण से नामांतरण स्वीकृत की जा सकती है।”

The Circle Officer heard both the parties but decided a sort by title when he declared that the sale by the vendor was right and nowhere mentions anything about the possession. Part of his conclusion is as follows :-

“ दोनों पक्षों के सुनने से स्पष्ट होता है कि बिक्रेता भी उस वारिशान के वारिश हैं, जिन्होंने अपने हिस्से की भूमि बेचा है। राजस्व कर्मचारी के प्रतिवेदन से स्पष्ट है कि बिक्रेता का भी 10 1/6 डी0 हिस्सा होता है। उसके कुछ भाग में सुअर पालन होता है। क्रेता के घर का मुख्य दरवाजा इसी भूमि से होकर निकलता है। ऐसी स्थिति में बिक्रेता को उस भूमि को बेचने का अधिकार सही प्रतीत होता है। स्वत्व वाद में भी किसी सक्षम न्यायालय के द्वारा स्थगन आदेश प्राप्त नहीं है। अतः आपत्ति को खारिज करते हुए आवेदक श्री जितेन्द्र रविदास पिता किसुन रविदास सा0— गोबरदरहा का दाखिल खारिज से संबंधित आवेदन स्वीकृत किया जाता है। यह आदेश स्वत्व वाद में आए आदेश से प्रभावित होगा। ”

In the instant case both the DCLR and the CO, Ramgarh have disregarded the Title Suit No. 58 of 2011 filed by Muneshwar Rabidas and Newalal Rabidas against Bhola Rabidas, Jitendra Rabidas and others. The Circle Officer had admitted the fact that Title Suit was under contest but still decided the right and title in favour of the respondent. The DCLR remained undecided and neither allowed nor dismissed the appeal.

The revision is therefore allowed and the impugned order of the LRDC is set aside. The consequence of this order will also fall on the mutation done by the C.O. which stands quashed. A copy of the order should be delivered to both for necessary compliance.

Written and Corrected by

Deputy Commissioner,  
Ramgarh.

Deputy Commissioner,  
Ramgarh.