

In The Court of Deputy Commissioner, Ramgarh

Misc. Appeal No. 4/12

Premnath Mahto & Others Versus Sakhichand Bedia

Order

24-9-13

This appeal has been preferred by the Appellants against the order dated 29-11-2011 passed by the DCLR, Ramgarh in I.R.R. Case NO. 09/2009-10. By the said order the learned DCLR had allowed the application of Sakhichand Bedia for issue of rent receipts.

The Appeal is related to the following land :-

Anchal	Village	Khata	Khesra	Area
Ramgarh	Chotki Pona	65	121	16 decimals

The appellant's case is that the land in questions was recorded in the name of Sita Ram Bedia in last record of rights. The said land was sold in favour of Lokan Mahto through registered sale deed No. 3251/1945 by none other than Sita Ram Bedia. After purchase, Lokan Mahto came in peaceful possession and even the land was mutated in the name of buyer. It is also submitted that Chaman Bedia filed Restoration Case No. 86/1980 which was rejected by the DCLR, Hazaribagh on 10-11-1980. As aggrieved party, Chaman filed Restoration Appeal No. 22/1980 in the court of Additional Collector, Hazaribagh which was allowed. Later, Bhola Mahto and others filed Revision Case No. 11/1983 in the Court of Commissioner which quashed the order of the AC and remanded once again to AC, Hazariabgh who ultimately dismissed the Appeal of Chaman Bedia.

A written argument has been filed on behalf of the respondents who took the plea that written permission of the Deputy Commissioner was not obtained prior to the purchase of the land in dispute. The respondent has admitted the order of the Commissioner, in Revision Case No. 11/1983 in favour of Bhola Mahto but has added that the Additional Collector ultimately ordered in favour of Chaman Bedia.

Now coming to Khata No. 65, the ROR shows the existence of many plots which include 121, 178, 619, 621, 622, 625, 674, 675, 902, 1008 and are recorded in the name of Sita Ram Bedia. The lower of the LRDC has ordered the modification

of Jamabandi in the name of present respondent with respect to all the 10 plots.

One letter No. 532 dated 07-03-2011 issued by the Anchal Office, Ramgarh reported that Jamabandi No. 148/V contained the name of Sita Ram Bedia for 1.14½ acres of land in Khata 65 and Jamabandi No. 158 included the name of Bhola Mahto and Matul Mahto for 16 decimals of land.

As far as the issue of permission of the Deputy Commissioner is concerned, it is well established fact that the Bedias were included within the definition of Schedule Tribe only in the year 1956. Thus in the year 1945, when 16 decimals of Plot No. 121 had already been transferred, the Bedias were not Schedule Tribes.

Moreover, it is an admitted fact that Jamabandi No. 198 existed in the name of Bhola Mahto who was the father of present appellants. It is proved beyond doubt that Jamabandi was running since long and the State was accepting rent and granting rent receipts. The father of the Appellants was accepted as a tenant by the State.

Once a tenancy right is created in respect of any land, the same has to be considered in accordance with the provisions of the C.N.T. Act. Under the provisions of Sections 17 and 19 of the Act, an occupancy right is acquired by a person remaining in possession of the land for more than 12 years. An occupancy raiyat cannot be ejected from his holding except in the manner as provided under Section 22. The learned DCLR had no right to determine tenancy and cancel Jamabandi of Bhola Mahto in the light of conclusions given in foregoing two paragraphs.

In the result, this Appeal is allowed and the order dated 29-11-2011 with regard to Plot No. 121 is quashed. The Anchal Adhikari, Ramgarh is directed to restore the names of the present appellants in Jamabandi No. 198.

Written and Corrected by

Deputy Commissioner,
Ramgarh.

Deputy Commissioner,
Ramgarh.