

In The Court of Deputy Commissioner, Ramgarh

Misc. Appeals Nos. 20/12, 13/12, 14/12, 15/12, 16/12, 17/12, 18/12

Shahid Hasan & other

Versus

Circle Officer, Mandu

&

Anwari Khaton & other

Versus

Circle Officer, Mandu

Order

6-9-13

The Present appeals have been preferred Challenging the orders passed by the DCLR, Ramgarh in case Nos. 09/09-10, 02/09-10, 04/2009-10, 03/09-10, 07/09-10, 08/09-10 and 06/09-10 whereby the application for the issue of rent receipts for the following land were rejected.

| Anchal | Village | Khata | Plot | Entry of RoR |
|--------|-----------|-------|------|------------------|
| Mandu | Barughutu | 48 | 453 | Gairmazarua Khas |

Casewise details of land are being given in the following table:-

| Case No. | Village | Khata No. | Plot No. | Area |
|--------------|-----------|-----------|----------|-------------|
| 20/12 | Barughutu | 48 | 453 | 15.25 Acr. |
| 13/12 | Barughutu | 48 | 453 | 10.25 Acr. |
| 14/12 | Barughutu | 48 | 382 | 40.00 Acr. |
| 15/12 | Barughutu | 48 | 385 | 50.00 Acr. |
| 16/12 | Barughutu | 48 | 383 | 40.00 Acr. |
| 17/12 | Barughutu | 48 | 453 | 18.05 Acr. |
| 18/12 | Barughutu | 48 | 453 | 40.10 Acr. |
| Total | | | | 213.65 Acr. |

All the above mentioned Appeals are related to the same land and hence heard together. The Khata 48 of village Barughutu was recorded as Gairmazarua Khas in the Record of Rights and land concerned is "Jungle" (forest).

In all the petitions submitted by the Appellants, it was submitted that the land in question was settled by the Ex-landlord through Hukumnama to their ancestors. It has further been submitted that after settlement, The Ex-landlord granted rent receipts after accepting the land revenue. It is further added that after the vesting of the estate with the erstwhile State of Bihar, all the names of the settlees were entered in Tenants Ledger (Register II) and even government

rent receipts were issued to then precedecessor-in-interest. It is stated that such receipts were issued till mid sixties or even late sixties and then discontinued.

Admittedly the land pertaining to Khata No. 48 is Gairmazarua Khas having an area of 102 Acres. The LRDC has dismissed all the cases on the ground that no such provision is there in the CNT Act. Apparently the lower court did not go in the merit of the case and without reaching any conclusion dismissed the same.

In all the cases, identical documents (Xerox copies) have been filed and those include i) Sada Hukumnama, ii) Zamindari Rent Receipts, iii) Amin Report, iv) Government Rent Receipts. But no original document was filed by the petitioners and Xerox copies cannot be relied upon.

It is a well known fact that Hukumnamas of the Ex-landlords are manufactured even today and same is the case with zamindari receipts also. Their authenticity is tested only by the zamindari return which has not been file in any of the Appeal cases mentioned above.

It is also a settled law that for consideration amount of more than rupees 100, there should also be registered deed. No person can acquire any right and title on the basis of oral or unregistered sale deed. In case of Md. Manna Ali & othr vs. State of Bihar & othr reported in 2002 (2) JLJR 520, the Hon'ble High Court has already held the same.

The contention of the Appellants that the State Government had accepted the Settleees as raiyats is on the face of it false and erroneous for the sole reason that no rent receipt form 1956 to 1959 was issued. The first rent receipt was issued in 1960 with collection of arrears for 56-57, 58-59, 59-60. Even the copies of the Hukumnama produced in lower court cases are false and fabricated sicne they do not have any supplementary evidence like Zamindari Return and the Bujharat Register.

It is also important to refer to a landmark judgment passed by Hon'ble Supreme Court dated 12-12-1996 in Writ Petn. Civil Nos. 202 of 1995 with 171 of 1996 T.N. Gadavarman Thirumulk pad etc. vs. Union of India (1997) S.C./78 (Air 1997 SC 1228). In the said decision it was held that "..... the term" forest land "occurring in Section 2 will not only include 'forest' as understood in the dictionary sense, but

also any area recorded as forest in the Government record irrespective of ownership” It was further held that all on-going activity within any forest land in any State throughout the country without prior approval of the Central Government, must cease forthwith. In the instant case land is ‘Jungle’ forest which has been grabbed and captured illegally by the Appellants.

Moreover, the Appellants failed to submit certified copy of Register II to prove that then Jamabandis are running ever since the vesting of Zamindari. No government rent receipt has been shown for 1970s, 1980s, 1990s 2000s and onwards. No reason has been given for non-payment of rent. Nor any notice of the Anchal Office was shown to prove that demand was really running.

In the aforesaid background, it is concluded that all the rent receipts based on forged Sada Hukumnama in collusion with lower revenue functionaries are illegal and the lower court has rightly dismissed the cases. All the Appeals, being devoid of any merit, are accordingly dismissed.

Let copy of the order be sent to the Additional Collector, and the LRDC, Ramgarh and also to the Circle Officer, Mandu for cancellation of Jamabandi (if any) and non issue of rent receipts.

Written and Corrected by

Deputy Commissioner,
Ramgarh.

Deputy Commissioner,
Ramgarh.