

In The Court of Deputy Commissioner, Ramgarh

Restoration Appeal No. 09/2013

Banwari Ram Versus Babulal Thakur & others

Order

This appeal has been filed against the order dated 16-11-2012 by the L.R.D.C. in Restoration Case No. 8/96 and 10/97 wherein the petition of Banwari Ram was rejected. This dispute relates to the following land:-

Anchal	Village	Khata No.	Plot No.	Area
Ramgarh	Kurum	25	223	0.51 Acre

The case of the appellant states that Mangra Mahli was the recorded tenant of Khata 25 and remained in possession till his death. After his demise successors took control of land and in post-vesting period, jamabandi was opened for entire 2.62 acre. Meanwhile 16 decimals of land was sold. Consequently area and demand were reduced but jamabandi continued for 2.46 acres of land. It is further pleaded that the recorded tenant or his descendants never surrendered an inch of land. It is also claimed that the appellants and family members are still in possession of the land but Respondent No. 1 to 4 are trying to throw him out of the land. The Court of L.R.D.C. was approached but justice was denied in Case No. 8/96.

Counsel for the respondents have filed some documents and submitted oral arguments. While arguing, the learned counsel stressed the registered surrender deed of 1947 by Pannu Mahli in favour of Nageshwar Sing. It was also pointed that no permission of the Deputy Commissioner was required in 1947. A Xerox copy of Register II has been submitted to prove that a jamabandi was opened in the name of Mohan Hajam which still continuous. In nutshell the learned counsel tried to convince the court that the tribal lost possession of the land for more than 12 years and as such restoration was not possible in accordance with the statute.

A bare perusal of the available documents proves that the issue of the present dispute was first initiated in 1996 and following are the details of previous cases:-

S.N.	Case No.	Court	Date of Order	Case filed by	Nature of Order
1	8/96	L.R.D.C.	27-01-1997	Banwari Ram	Restoration Case Rejected
2	10/97	Addl. Collector	24-8-1998	Banwari Ram	Case Remanded
3	77/98	Commissioner	26-6-2000	Mohan Thakur	Order of AC set aside & remanded
4	8/96	L.R.D.C.	16-11-2012	-	Restoration Case Rejected

Considering the above orders, it appears that after the order of the Commissioner in Case No. 77/98, the L.R.D.C. had no jurisdiction to assume the function of Additional Collector who was ordered to hear the case on remand. Hence the order 16-11-2012 is frivolous and illegal.

Now coming to the merit of the case, it is an admitted fact that surrender deed was executed in 1947 when no permission of the Deputy Commissioner was required. But subsequent transfer by Nageshwar is not known. No document has been given to prove as to how the land passed in the hands of Mohan Thakur. The Register II does not incorporate any order with case no. of the revenue functionary who ordered creation of jamabandi. The basic question remains that when surrender was done with registered deed, why subsequent transaction was unregistered. In 1947 also, Section 17 of The Indian Registration Act was applicable and as such plain transfer had no legal sanctity.

On the other hand, demand still runs in the name of Punu Mahli for 2.46 acres of land in Khata No. 25. This proves that successors of the recorded tenant are still in possession of land.

In the result, the Appeal is allowed and the order of the L.R.D.C. dated 16.11.2012 set aside. A copy of the order should be sent to the Additional Collector and the C.O. to ensure that no parallel jamabandi should run.

Written and Corrected by

Deputy Commissioner,
Ramgarh.

Deputy Commissioner,
Ramgarh.