

IN THE COURT OF THE COMMISSIONER, SANTHAL PARGANA
DIVISION, DUMKA

R.M.A No. 108/1987-88

Ashish Kumar Dey

...Appellant

V/s

Barun Kumar Dey & others

...Respondents

21.2.2022

ORDER

The instant appeal has been preferred by the appellant against the order dated 10.04.1987 passed by the Mrs. M.B. Kachhap, Settlement Officer, Dumka in Fauti Case No. 58/1987 in respect of the land of Jamabandi No. 17/ka of mouza Gopalpur No. 07, S.C. Dhaka, P.S. Shikaripara, District Dumka directing to record the same in the name of the descendants of the recorded tenants of Jamabandi No. 18 of said mouza Gopalpur No. 07.

The learned counsel of the appellant argued and submitted that Sabik Khata No. 17/ka converted into Hal Khata no. 27 of mouza Gopalpur No. 07 stands recorded in the name of Surendra Nath Dey S/o Girish Chandra Dey who died issueless and he died leaving childless widow of Basni Sundari Dasi and the appellant adopted by his widow Basni Sundari Dasi vide Registered Adoption Deed on 19.04.1964 vide Adoption Deed No. 617 of 1964 of Sub-Registry Office, Dumka the land of Jamabandi No. 17/ka devolved upon the appellant and accordingly the appellant has been coming in possession of the same but the respondents have claimed

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the land in question recorded in their names as Awaidh Dakhalkar in present Settlement Khatian No. 27/17ka of mouza Gopalpur No. 07 for which a Fauti Case No. 58/1987 was initiated in which Assistant Settlement Officer, Tasdik Camp Shikaripara North, District Dumka directed to record in the name of appellant who is adopted son of Basni Sundari Dasi W/o Late Surendra Nath Dey in respect of Jamabandi No. 17/ka of mouza Gopalpur, sent the same for recommendation and the learned Settlement Officer, Dumka without recommending the order of the Assistant Settlement Officer dated 26.03.1987, passed his order dated 10.04.1987 directing to delete the word Awaidh Dakhalkar being not fauti and open khata in the name of the respondents only. Therefore, against the impugned order dated 10.04.1987 of the learned Settlement Officer, Dumka, the appellant has preferred this appeal claiming to record his name in respect of lands of last settlement Jamabandi No. 17/ka of mouza Gopalpur No. 07 by allowing the appeal of the appellant and setting-aside the order the learned Settlement Officer, Dumka.

The learned counsel of the substituted respondents submitted that they have succeeded the aforesaid land of Jamabandi No. 17/ka of mouza Gopalpur No. 07 being the descendants of the recorded tenant Hemchandra Dey S/o Girish Chandra Dey and accordingly their names have been entered in current khatian as Awaidh Dakhalkar and in Fauti Case No. 58/1987 of the court of Assistant Settlement Officer, Tasdik Camp Shikaripara North, settled the aforesaid land in favour of appellant and the learned Settlement Officer rejected the recommendation of Assistant Settlement Officer vide order dated 10.04.1987. Therefore, the appeal filed by the appellant is liable to be dismissed.



Heard the learned counsel of the both parties, perused documents available on record and I find that the both parties are the legal heirs and successors of one common ancestor Girish Chandra Dey who had four sons Hemchandra Dey, Binod Bihari Dey, Surendra Nath Dey and Bhushan Chandra Dey (died before Gantzer's Survey Settlement) and on his death, his widow Kuntal Kamini Dasi became the recorded tenant of Gantzer's Settlement Surendra Nath Dey had separate Jamabandi lands in mouza Gopalpur i.e. Jamabandi No. 17/ka, Jamabandi No. 08 of mouza Netur pahari, P.S. Dumka Mufassil, Jamabandi No. 2 of mouza Bichbinda, Jamabandi No. 90 of mouza Kurwa Chak Raghunath Ganj and others which stood recorded in the name of recorded tenant Surendra Nath Dey. The appellant is the descendant of Kuntal Kamini Dasi widow of Bhushan Chandra Dey predeceased son of Girish Chandra Dey and on her death appellant being adopted son of Basni Sundari Dasi widow of Surendra Nath Dey adopted vide Registered Adoption Deed No. 617 of 1964 on dated 19.04.1964. On death of Surendra Nath Dey the lands of Jamabandi No. 17/ka devolved upon the appellant from the recorded tenant Surendra Nath Dey, the respondents have been recorded as Awaidh Dakhalkar in the present Settlement Khata No. 27/17ka of mouza Gopalpur No. 07 and a Fauti Case No. 58/1987 started in which Assistant Settlement Officer, Tasdik Camp, Shikaripara North settled the same with the appellant and sent the record on dated 26.03.1987 for recommendation but the Settlement Officer, Dumka vide order dated 10.04.1987 rejected the claim of the appellant directing wrongly and illegally to record the same in favour of substituted respondents and the appellant have claimed to record their names in aforesaid Jamabandi No.

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27/17ka which are in possession of the appellant being the adopted son of recorded tenant Surendra Nath Dey which the learned Court of Settlement Officer, Dumka ignored by passing his order dated 10.04.1987 in Fauti Case No. 58/1987.

After discussion, I find that the land in question of Jamabandi No. 27/17ka of mouza Gopalpur No. 07, P.S. Shikaripara, District Dumka is exclusively recorded in the name of Surendra Nath Dey, the ancestor of appellant in which the respondents have no right to claim the aforesaid land in question and therefore after expunging the name of the respondent, it is directed to record in the name of the appellant, the current parcha Jamabandi No. 27/17ka by setting-aside the order dated 10.04.1987 of the Settlement Officer, Dumka passed in Fauti Case No. 58/1987.

And accordingly, the appeal of the appellant is allowed.

Dictated and Corrected by me


21.2.2022
Commissioner

Santhal Pargana Division,
Dumka.


21.2.2022
Commissioner

Santhal Pargana Division,
Dumka.