

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

**R.M.A. No. 317/1987-88**

Ramdeo Manjhi

....Appellant

V/s

Dukho Laiya & others

....Respondents

**ORDER**

17/2/2022 The instant Appeal has been filed against the order dated 03.09.1987 passed by the then learned Additional Deputy Commissioner, Dumka in R.M.A No. 194/1981-82 rejecting the claim of the appellant Ramdeo Manjhi S/o Gurchi Manjhi confirming the order dated 21.01.1980 passed in R.E. Case No. 143/1979-80 by the learned Subdivisional Officer, Dumka in respect of the land measuring an area 1 Bigha 5 Kattha 16 dhurs of plot no. 54 of mouza Pagwara Paschim Patti No. 48, Circle Kasba, P.S. and Anchal Saraiyahat, District Dumka.

The learned counsel of the appellant argued and submitted that the land measuring total area 1 Bigha 5 Kattha 16 dhurs of Gantzer's plot no. 54 of mouza Pagwara Paschim Patti No. 48, Circle Kasba, P.S. and Anchal Saraiyahat, District Dumka stands recorded in the name of recorded tenant Ramdhan Laiya in the last survey settlement of Mr. Gantzer, in which entire land of plot no. 54 has been given to the father of appellant Gurchi Manjhi by means of Kurfa settlement in the year 1936 A.D. executed in a white paper by the ancestor of the respondent and since then the appellant's father had been in peaceful cultivating possession of the same.

Further submission of the appellant's counsel is that subsequently on death of settlee, his son remained and continued his possession over the said cultivated land and house and on his death his son Ramdeo Manjhi inherited the said land, and they came in remaining peaceful physical possession over the same till date and using the same as their only shelter dwelling house. Appellant produce their Kurfa document before

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the learned Subdivisional Officer, Dumka stating there in that the land in question have been acquired prior to S.P.T Act 1949 came in force and there claim is legal, valid and genuine for settlement with them but the learned Subdivisional Officer although accepted the possession of the appellant through Kurfanama of the year 1936 given by the respondents Ramdhan Laiya but owing to non-transferable land, and the ancestor of opposite parties filed two title suit for declaration of their right, title, interest and recovery of possession vide Title Suit No. 02/1961 of court no. II, Dumka Judgement dated 30.09.1961, and again filed Title Suit No. 67/1969 before the Sub-ordinate, Judge, Dumka the both suits was compromised vide judgement dated 30.09.1961 and 24.9.73.

Whereunder appellant perfected title over the land in question possession recognised by the Civil Court. plot no. 54 of an area 1 Bigha 5 kattha 16 dhurs and settlee mutated his name vide Mutation Case No. 21 (3) of 1966-67 order dated 08.03.1967 and paying rent till date, claim of the appellants was rejected by Subdivisional Officer in R.E. Case No. 143/1979-80.

Against the said order passed in R.E. Case No. 143/1979-80 of the learned Subdivisional Officer, Dumka the appellant preferred an appeal before Additional Deputy Commissioner, Dumka vide Rev. Misc. Appeal No. 194/1981-82 whereunder the learned Deputy Commissioner, Dumka discarded the claim of the appellants and confirming the order of Subdivisional Officer, Dumka and hence the appellants again preferred appeal before this court bearing Rev. Misc. Appeal No. 317/1987-88 (Ramdeo Manjhi V/s Prasadi Laiya) claiming the aforesaid Kurfa settled land for allowing the appeal in his favour.

Learned counsel of the respondent submitted that Gantzer's plot no. 54 of an entire area 1 Bigha 5 kattha 16 dhurs of mouza Pagwara Paschim Patti No. 48, P.S. and Anchal Saraiyhat, District Dumka stands recorded in the name of Ramdhan Laiya in the last settlement parcha. The respondents are legal heirs and descendants of said Ramdhan Laiya.

The respondent counsel further submitted that in the year 1979, a R.E. Case No. 143/1979-80 was initiated for eviction of Ramdeo Manjhi S/o Gurchi Manjhi of plot no. 54 of an area 1 Bigha 5 kattha 16 dhurs of mouza Pagwara Paschim Patti No. 48 and also paid regular rent and thereafter these respondents being his legal heirs and successor inherited and came in legal and actual possession over the entire plot no. 54 on payment of rent and till date, they are in possession being legal heirs and successors. So claim of the appellants Ramdeo

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Manjhi as made, is falsified and he never possessed the land in question.

Heard the counsels of both the parties on perusal of the documents available on record, I observe that the appellant is in possession of land of plot no. 54 measuring an area 1 Bigha 5 kattha 16 dhurs of mouza Pagwara Paschim Patti No. 48, P.S. and Anchal Saraiyahat, District Dumka which has been given by the ancestors of the respondent to the appellant's father by dint of Kurfanama of the year 1936 and settled in support of the appellant as well as two Civil Court judgements are in favour of appellant vide Title Suit No. 02/1961 and Title Suit No. 67/1969 and Mutation Case No. 21(3) of 1967-68 and pay rent to the authority concern and appellant are in peaceful cultivating possession over the land.

In view of the above discussion, I find that the land measuring an area 1 Bigha 5 kattha 16 dhurs of mouza Pagwara Paschim Patti No. 48, P.S. and Anchal Saraiyahat, District Dumka settled with the appellant's descendants by Kurfanama of the year 1936 executed by the respondent's ancestor over which the appellants are in continuing cultivating possession and residential house since before 12 years prior to enactment of S.P.T Act 1949 and the order of the courts below vide Rev. Misc. Appeal No. 194/1981-82 order dated 03.09.1987 and R.E. Case No. 143/1979-80 of the Additional Deputy Commissioner, Dumka and the learned Subdivisional Officer, Dumka respectively are liable to be set-aside.

Hence the appeal is allowed.

Dictated and Corrected by me

  
Commissioner  
Santhal Pargana Division,  
Dumka.

  
Commissioner  
Santhal Pargana Division,  
Dumka.