

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

**R.M.R. No. - 69/2003-04**

Girish Chandra Sah & Others ----- Petitioners

-: Versus :-

Kirni Devi & Others ----- Opposite Parties

**ORDER**

30/12/2021

This instant revision is preferred against the orders dated 27.07.2002 passed by the Additional Deputy Commissioner Dumka in R.M.A. No. - 21/94-95 and R.M.R. No. - 13/1998-99.

Learned counsel for the petitioners submitted that petitioners are poor and deserving raiyats of Mouza - Chorajore under P.S. - Saraiyahat, Dist. - Dumka. Petitioner's father got settlement of plot no. - 74, area - 1 Acre of land through Pradhani Patta dated 17.11.1957. The then Village Pradhan of Mouza - Chorajore informed the said settlement of land to the S.D.O. Dumka through registered post. After settlement petitioner's father reclaimed the land into Bari and growing maize crops so long he was alive.

Learned counsel submitted that after death of petitioner's father, petitioners being legal heirs and successors inherited the said land and possessing peacefully without any hindrance. In the year of 1991 petitioners have filed Rev. Misc. Case No. - 119/91-92 court of S.D.O. Dumka for confirmation of the Patta. One Kirni Devi opposite party no. - 1 raised objection and the court below

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cancelled the patta of the petitioners vide order dated 21.01.1994 and also settled plot no. - 74, Area - 31 Dismal to the O.P. No. - 1 by the same order which is illegal in the eye of law as in the same record the S.D.O. cannot settled the land when there is no proceeding for settlement of land.

Learned counsel submitted that against the order of S.D.O. preferred R.M. Appeal No. - 21/94-95 before the Deputy Commissioner Dumka in the meantime one Hemlal Das concealing entire facts without making party to the petitioners or Kirni Devi (O.P. No. - 1) got the settlement of land, plot no. - 74, Area - 1 Acre of land from court of S.D.O. Dumka in S.R. Case No. - 9/1994-95 dated 16.09.1996. Petitioners also filed R.M.R. No. - 13/98-99 against the order of S.D.O. in S.R. Case No. - 9/94-95 but the court's below without considering the facts and valuable documents submitted by the petitioners illegally set aside the settlement of the petitioners after confirming the settlement order of the O.P. No. - 1 and 2 which is against the natural justice and pray for set aside the order of court's below.

Learned counsel for the opposite party no. 1 submitted that the O.P. No. - 1 got 31 decimals of land in Anabad Khata No. - 37, Plot No. - 74 in R.M. Case No. - 199 of 1991-92 from the court of S.D.O. Dumka. Kirni Devi is in actual physical and cultivating possession over the land with payment of rent. Petitioner has not cultivated the land nor in possession, hence the court below rightly cancelled the claim of the petitioners.

Learned counsel for the opposite party no. 2 submitted that Hemlal Das (O.P. No. 2) has got settlement only 79 decinmals of land from the court of S.D.O. Dumka in S.R. Case No. -

  
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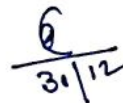


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9/1994-95. After settlement came in actual physical possession over the land petitioner claimed over the disputed plot no. 74 on the basis of Pradhani Patta which is wrong and beyond law, hence the court below rightly rejected the claim of the petitioners.

Heard the learned lawyer of both parties and perusal of documents available on record I find plot no. - 74 of Mouza - Chorajore, S.C. - Kakni, P.S. - Saraiyahat, Dist. - Dumka is recorded as Parti Kadim land in gantzer's settlement parcha. Mouza - Chorajore is a Pradhani Mouza and the then Village Pradhan after considering the genuine claim and need of petitioner's father gave settlement, one acre of land through Pradhani Patta dated 17.11.1957. The said settlement already reported through registered post by the then Pradhan Haldhar Pd. Sah to Subdivisional Officer, Dumka vide S.R. Case No. - 78 of 1957. After death of petitioner's father the present petitioners inherited the same and possessing peacefully with payment of rent. In the year of 1992 petitioner for confirmation of the Patta filed R.M. Case No. - 199/1992 during pendency of the case one Kirni Devi (O.P. No. - 1) raised objection regarding the confirmation of the Patta. The court below ignoring the peaceful possession of the petitioners over the settled plot no. 74 cancelled the said Pradhani Patta and in the same order settled 31 dismal of land to O.P. No. - 1 and the said order also confirmed by the Additional Deputy Commissioner Dumka which is against the settled principle of law and the settlement made in favour of O.P. No - 1 is illegal and without jurisdiction. The court below has got no jurisdiction to cancel the Patta U/s 32 of the S.P.T. Act after one year from issuing the Patta.

I find in this case the land was given by the Village Pradhan to the petitioner's father in the year of 1957 and Objection was raised for first time in year 1992. In this regard the Honourable


  
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Jharkhand High Court Ranchi held in (Sohrab Ansari -versus- State of Jharkhand & Others) reported in JBCJ 2013 (3), "Objection before Deputy Commissioner against settlement of waste land and vacant holding could have been taken only within a period of one year as per section 32 whereas objection has been raised after lapse of 35 years it cannot be entertained."


I find the court below miserably failed to consider the valuable Pradhani Patta issued by the then Pradhan in the year of 1957 in favour of petitioner's ancestor and in wrong motion settled the plot no. 74 in favour of Opposite Party No. - 1 Kirni Devi and O.P. No. - 2 Hemlal Das which is gross violation of natural justice. Hence the order passed by the Additional Deputy Commissioner Dumka in R.M.A. No. - 21/94-95, R.M.R. No. - 13/1998-99 order dated 27.07.2002 and order of Subdivisional Officer, Dumka passed in R.M. Case No. - 199 of 1991-92 (Girish Chandra Sah -versus- Kirni Devi) order dated - 21.01.94, S.R. Case No. - 9 of 1994-95 (Hemlal Das -versus- 16 Anna Raiyats) order dated - 16.09.1996 are hereby set aside.

Hence the revision is allowed.

Dictated and Corrected by me.

  
30/12/2021

Commissioner  
S.P. Division, Dumka.

  
30/12/2021

Commissioner  
S.P. Division, Dumka