

आवेदन की क्रम संख्या और तारीख 1	आदेश और पदाधिकारी का हस्ताक्षर 2	आदेश पर की गई कार्यवाही के बारे में टिप्पणी, तारीख के साथ 3
12/5/2022	<p align="center"><b>Court of Hon'ble Commissioner, Santhal Parganas Division, Dumka</b></p> <p align="center"><b>Settlement Misc. Revision No. 88 of 2006-07</b></p> <p><b>Paul Hembrom and others                                  .... Petitioners</b></p> <p align="center"><b>Vrs.</b></p> <p><b>Raj Kishore Marandi and others                                  ... O.Ps.</b></p> <p align="center"><b><u>ORDER</u></b></p> <p>Heard the parties.</p> <p>The present Revision has been filed by the petitioners against order dated 10.11.2006 passed by learned Charge Officer, Dumka, passed in his M.P. Case No. 617 of 2006.</p> <p>The petitioners have pleaded that Last Settlement Jamabandi No. 24 of mouza Sarwa stood recorded in the name of Piru Marandi and Rauta Marandi and Jamabandi No. 25 of mouza Sarwa, P.S. Dumka Mufassil came to be recorded in the name of Piru Marandi; and Last Settlement Jamabandi No. 68 of mouza Kurwachak, P.S. Dumka Town, came to be recorded in the name of Piru Marandi, both within Subdivision and District Dumka and the relationship has been given in their Written Notes of Argument.</p> <p>It has been then pleaded by the petitioners that Piru Marandi had lost his only son; and under such</p>	



circumstances, said Piru Marandi adopted this petitioner by Registered Deed of Adoption No. 25 of 1950 dated 17.04.1950; and after the adoption, the ancestor of the O.Ps. filed Title Suit No. 42 of 1964 before the Additional Subordinate Judge – I, at Dumka for cancellation of the Deed of Adoption; but the aforesaid suit was compromised in between the parties in which the adoption was admitted by the ancestor of the O.Ps. and learned Additional Subordinate Judge, Dumka vide an judgment dated 28.03.1968 allowed the compromise petition; and as per compromise, half share each within Last Settlement Jamabandi No. 24 of mouza Sarwa was allotted to the petitioners and the O.Ps. while full properties of Last Settlement Jamabandi No. 25 of mouza Sarwa was allotted to the petitioners and the full properties of Last Settlement Jamabandi No. 68 of mouza Kurwachak was allotted to the petitioners; and the same would be evident from the perusal of the judgment dated 28.03.1968 passed by Additional Sub-Judge, Dumka, passed in his Title Suit No. 18/53 of 1965/67, in accordance with the judgment dated 28.03.1968 passed by Additional Sub-Judge, Dumka, passed in his Title Suit No. 18/53 of 1965/67, during the Present Settlement, which commenced in the year 1978, the name of the petitioners was recorded as per the judgment of the Civil suit; but the O.Ps. filed Misc. Petition No. 617 of 2002 before the Settlement Officer, Dumka, which was transferred to the Charge Officer, Dumka; and



learned Charge Officer, Dumka without entering into the merits of the case and exceeding his jurisdiction, wrongly and illegally held the judgment of the civil suit to be a collusive compromise decree, which was beyond the jurisdiction of the Charge Officer, Dumka.

The petitioners have then pleaded about Section 16 of the Hindu Adoption Act; and in accordance to Section 16 of the Hindu Adoption Act, have prayed to set aside the order dated 10.11.2016 passed by Charge Officer, Dumka, passed in M.P. Case No. 617 of 2006.

On the other hand, the O.Ps. have appeared in the present case and have argued that the suit decreed was a collusive decree and challenges the Deed of Adoption of the father of this petitioner and prays to reject the prayer of the petitioners.


After hearing both the parties and after perusal of the order passed by learned Charge Officer, Dumka, it seems that learned Charge Officer without holding jurisdiction to overrule the judgment of a civil suit and the Charge Officer, Dumka without having a jurisdiction to declare the Deed of Adoption as null and void, has passed an order, which seems beyond the provisions of Regulation III of 1872; and since there had been a civil suit in between the parties and as per compromise, the O.Ps. themselves have admitted about the adoption and the Court of the Senior Civil Judge holds power to set aside the Deed of Adoption; but it seems that



no petition has been filed by the O.Ps. for cancellation of the Deed of Adoption; and neither any Appeal has been filed against the judgment of the Civil Suit passed earlier, so it was the incumbent duty of the lower Court to consider the Deed of Adoption and the civil suit judgment; but the lower Court has outrightly ignored the same; and under such circumstances, the order dated 10.11.2006 passed by learned Charge Officer, Dumka, passed in his M.P. Case No. 617 of 2006, is hereby set aside; and the Revision of the petitioners is allowed.

**The Revision is hereby allowed.**

Dictated and Corrected

  
12/5/2022

Commissioner S.P. Division

  
12/5/2022

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