

IN THE COURT OF THE COMMISSIONER SANTAL PARGANAS

DIVISION AT DUMKA.

Rev. Misc. (objection) appeal No. 361 of 2013 -14

Terar Masat Appellant.

Versus

Nakul Masat and others Respondents.

ORDER

13/6/2022

The above appeal of the appellant has been filed against the order dated 26.08.2013 of charge officer No. I, settlement court, Dumka in objection case on. 20/2007 of mouza - Titmo thana No. 37, Sardari Circle - Kakni, Anchal - Saraiyahat, District Dumka by the said order the charge officer No. 1 has dismissed the said case of the appellant as it relates to title.

The facts of the case revolve within short campus. It is admitted fact that last plot No. 744 area 0.36 Acre appertaining to last J.B. No.2 of mouza - Titmo No. 37 which stood recorded in the name of Abdul Mian and Similarly the last plot No. 192 area 0.25 Acre appertaining to last J.B. No. 47 of mouza - Mathkesho, S.C. Kakni, P.S. + Anchal - Saraiyahat, District - Dumka stood recorded in the name of Mangu Masat.

It may be mentioned here that the when said Mangu Masat attained

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the majority had authorised for mutual benefit and convenience. But the said Raju Masat had taken the advantage of excess age of his father Mangu Masat got order on 14-11-1973 vide Exchange case No. 98/1973-74 of the court of S.D.O. Dumka. It may be noted mere that at the relevant period the said land was in Joint possession but the said Raju Masat was committed foul play behind back of his younger brother Tetar Masat (appellant) It may be mentioned here that both the brothers were in possession and occupation of the exchanged land.

It may be mentioned here that during the present survey operation the elder brother Raju Masat being karta of his Joint family was covetous and in order to oust the appellant from the half share manoeuvred in his name behind back of the appellant. Further it may be mentioned here that copy of new khatian was taken by and returned with the elder brother Raju Masat so the appellant could not see and act upon earlier. It may be mentioned here that after final publication of parcha. The elder brother Raju Masat died leaving behind his three sons by Nam Nakul Masat, Sahdeo Masat and Pramod Masat. It may be mentioned here that admittedly the appellant and respondent 1st party are legal heirs and successors of said Mangu Masat (since deceased) The charge officer No. 1 in the impugned order held that the appellant claim comes under the purview of title matter. But the law is otherwise. It clearly signifies legal heirs and successors. All the legal heirs

and successors are entitled to inherit the landed property as per section - 8 of the Hindu succession Act 1956.

The settlement authorities engaged in settlement works ought to be involved un-necessarily - in the controvertial matter. They are only to record the names of the legal heirs and successors on the basis of said undisputed kurfa, partitioned transfer exchange ect. if any.

In the instant case all the legal heirs as per provision of law are entitld to be recorded as such in the present settlement.

Therefore, the impugned order of the charge officer No. 1 was wrong and erroneous in coming to the conclusion that the matter relates to civil nature.

In my opinion the appellant and respondent 1st party are legally entitled to get share half and half in the present khatiyani and therefore, the order passed by chage officer No. 1 is prima facie illegal and thus the impugned order is hereby set aside.

I direct the settlement authority Dumka to record the name of the appellant with the respondent 1st party showing half and half share over final plot no. 948 area 0.36 Acre of final J.B. No. 96 of mouza Titmo No. 37. Sardari Circle - Kakni, P.S. and Achal - Saraiyahat, District - Dumka.



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In the result, the appeal is allowed and the order dated 26.08.2013 of the charge officer, 1 Dumka is set aside.

Appeal is allowed.

13/6/2022

**Dictated and correct by me.
Commissioner
S.P. Division Dumka.**

13/6/2022

**Commissioner
S.P. Division
Dumka.**