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IN THE COURT OF COMMISSIONER SANTHAL PARGANA
DIVISION, DUMKA

R.M.R. No. - 139/2014-15

Sushila Devi & Others ----- Petitioners

-: Versus :-

Mahadeo Kapri ----- O.P.

6/5/2022

ORDER

This instant revision has been preferred against the order dated - 22.09.2014 passed by the Settlement Officer, Dumka in Objection Case No. - 37 of 2008.

Learned counsel for the petitioners submitted that the opposite party Mahadeo Kapri filed Objection Suit No. - 37 of 2008, before the Settlement Officer, Dumka for correction of the entries and to record his name in Final Purcha in respect of J.B. No. - 33/15 of Mouza - Kasba No. - 45, Anchal - Saraiyahat, Dist. - Dumka. The court below without verifying the documents and legal status of Mahadeo Kapri, pass an order to record the name of

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O.P. as son of Sitaram Kapri in column 2 and 9 of Raiyati Khatiyani No. - 33/15 of Mouza - Kasba.

Learned counsel submitted that O.P. being illegitimate son of Sita Ram Kapri did not inherit the properties of his father; and the court below has no jurisdiction to decide the title and inheritance without any evidence in Summary Proceeding. Hence the order of court below is bad in law, illegal, unlawful and fit to be set aside.

Learned court for the opposite party submitted that the land J.B. No. - 15 of Mouza - Kasba acquired the O.P. father Sitaram Kapri from Title Suit No. - 7/1944 in the court of Additional Collector 2nd Court Dumka. Sitaram Kapri had two wives. Deo Narayan Kapri and Jagarnath Kapri from 1st wife and O.P. Mahadeo Kapri from 2nd wife. Sitaram Kapri died leaving behind three sons Deo Narayan Kapri, Jagarnath Kapri and Mahadeo Kapri as legal heirs and successors possessing the land peacefully in respect of J.B. No. - 33/15 of Mouza - Kasba and the court below after scrutinizing all the relevant documents passed order to record the name of O.P. with Deo Narayan Kapri and

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Jagarnath Kapri in column 2 and 9 of Raiyati Khatiyani No. - 33/15. Revision having no merit, hence pray for dismissal.

Heard the learned lawyers of both parties and perusal of documents available on record I find the land Sabik J.B. No. - 15 of Mouza - Kasba No. - 45, Anchal - Saraiyahat, Dist. - Dumka stands recorded in the name of Ramdular Laiya in Gantzer's Settlement Purcha. The said J.B. No. - 15 acquired by Sitaram Kapri from Title Suit No. - 7/1944 in the court of Additional Collector 2nd Court Dumka. The dispute between the parties are related Civil in nature, and it cannot be decided in Summary Proceeding, but the court below without giving opportunity to these petitioners for raising objection passed order to record the name of O.P. in Raiyati Khatiyani No. - 33 of Mouza - Kasba, which is against the Natural Justice. From the above facts and material on record I find the dispute between the parties are Civil in nature and parties having every right, title and interest involved over the J.B. No. - 33/15 of Mouza - Kasba, but the court below in Summary Proceeding decided the title of O.P., which is untenable in law. Hence the order dated - 22.09.2014 passed by

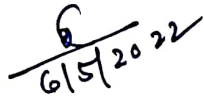


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the Settlement Officer, Dumka in Objection Case No. – 37 of 2008
is hereby set aside.

Hence appeal is allowed.

Dictated and Corrected by me.


6/5/2022

Commissioner
S.P. Division, Dumka.


6/5/2022
Commissioner
S.P. Division, Dumka.