

IN THE COURT OF COMMISSIONER SANTHAL PARGANA
DIVISION, DUMKA

R.M.A. No. - 143/14-15

Astik Manjhi ----- Appellant

-: Versus :-

Sadanand Manjhi & Others ----- Respondents.

ORDER

25/3/2022

This instant appeal has been preferred against the order dated 13.10.2014 passed by the Deputy Commissioner, Dumka in R.M.A. No. - 19/2011-12.

Learned counsel for the appellant submitted that Mouza - Ghaghara No. - 40, P.S. - Jama, Dist. - Dumka in Pradhani Mouza and Dhankisto Manjhi was the last Pradhan, he died many years ago as such Mouza remains Khas. Respondent No. - 2 Binod Manjhi filed an application for his appointment of Village Prdhan as such P.A. Case no. - 269/06-07 registered in the Court of S.D.O. Dumka. Appellant also applied for his appointment

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on the ground that his great grandfather was the last Prdhan. Respondent No. - 1 Sadanand Manjhi also filed application for his appointment U/s 6 of the S.P.T. Act.

Learned counsel submitted that S.D.O. Dumka call for list of raiyats from Circle Officer, Jama. The C.O. Jama submitted list of 72 Jamabandi Raiyats, 54 Raiyats cosented for the appointment of petitioner as the Pradhan of the Village, thereafter S.D.O. appointed this petitioner / appellant as Prdhan on 18.02.2008. Subsequently appellant had deposited the Security Amount and the Kabuliyat has been issued in his favour. Appellant since then discharging his duties with the satisfaction of the villagers. Respondent No. - 1 preferred appeal before the Deputy Commissioner, Dumka vide R.M.A. No. - 79 of 2007-08 on the ground that instead of appointing Pradhan U/s 6 of the Act, but the S.D.O. appointed this appellant as Pradhan U/s 5 of the S.P.T. Act. Thereafter the Deputy Commissioner Dumka set aside the appointment of the petitioner vide order dated 16.02.2011 and directed S.D.O. Dumka to appoint Pradhan according to procedure laid down under law. The Subdivisional Officer during enquiry found that the eldest son of last Prdhan Dhankisto Manjhi died issueless and his adopted son had not filed any application for the

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post of Pradhan and respondent no. - 1 Sadanand Manjhi had encroached gochar plot will not be able to safeguard of govt. land, thereafter appointed appellant as Village Prdhan vide order dated 08.07.2011.

Learned counsel submitted that again the respondent no. - 1 preferred appeal against the order of S.D.O. before the court of Deputy Commissioner Dumka vide Prdhani Appointment Appeal no. - 19 of 2011-12 on the ground that court below did not appreciate the norms of law and also without appreciating the enquiry report of C.O. and after hearing the Deputy Commissioner Dumka set aside the order of S.D.o. Dumka. The order of court below is illegal, arbitrary and bad in law, hence pray for set aside the order of court below.

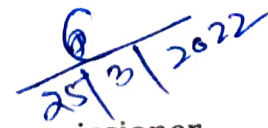
Learned counsel for the respondent submitted that respondent is the eldest son of the next brother of last Pradhan Dhankisto Manjhi, whereas the appellant is the heir from the 2nd wife of last Prdhan, but the Subdivisional Officer Dumka wrongly appointed the appellant as Mouza Pradhan U/s 5 of the S.P.T. Act. The Deputy Commissioner Dumka rightly set aside the order of S.D.O. and remanded back the case for enquiry. Appeal having no merit, hence pray for dismissal.

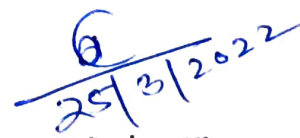
Heard the learned lawyers of both parties and perusal of documents I find Mouza - Ghaghara No. - 40, S.C. - Chuto, P.S. - Jama, Dist. - Dumka is a recorded Pradhani Mouza. Makhan Manjhi was the recorded Pradhan of Mouza - Ghaghara in gantzer's settlement. After death of Makhan Manjhi his eldest son from 1st wife namely Dhankisto Manjhi was appointed Prdhan, he also died leaving behind his widow Bhujbala dasi and adopted son Rajendra Nath Manjhi were not interested for the post of Prdhan. Thereafter the Mouza remain Khas. Appellant and respondents applied for their appointment as Village Pradhan of Mouza - Ghaghara before the court of S.D.o. Dumka vide P.A. Case No. - 269/06-07. The Subdivisional Officer, Dumka according to Provision notice to the 16/- Anna Raiyats and call for list of Jamabandi Raiyats to find out who is generally acceptable by the 16/- Anna Raiyats. I find Circle Officer, Jama submitted list of Jamabandi Raiyats on 01.11.2007 and 06.12.2007, out of 72 J.B. Raiyats, 54 Raiyats consented for the appointment of this appellant as the Prdhan of the village, thereafter the S.D.O. appointed this appellant as Mouza Prdhan vide order dated 18.02.2008. In the case of Jagdish Mishra -:versus:- Chamaklal Mishra reported in 1965 B.L.J.R. 674 it has been held by Division

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Bench of the Patna High Court that the Pradhan is a representative of the raiyats. The Deputy Commissioner before appointing a Pradhan is to satisfy himself whether the man is going to appointed as Pradhan is acceptable to the Jamabandi Raiyats or not, as the appointed has to be made by the Deputy Commissioner in conformity with the opinion of the Jamabandi Raiyats. I find the Subdivisional Officer Dumka appointed the appellant as Mouza Pradhan is generally acceptable by the Jamabandi Raiyats but the Deputy Commissioner Dumka without applying his judicial mind set aside the order of S.D.O. Dumka and remanded the case for enquiry, which is against the settled principle of law as laid down U/s 5 of the S.P.T. Act 1949. Hence the order dated 13.10.2014 passed by the Deputy Commissioner Dumka in R.M.A. No. - 19/2011-12 is hereby set aside and upheld the order of S.D.O. passed in P.A. Case No. - 269/06-07.

Dictated and Corrected by me.


Commissioner
S.P. Division, Dumka.


Commissioner
S.P. Division, Dumka.