

IN THE COURT OF THE DIVISIONAL COMMISSIONER,
S. P. DIVISION AT - DUMKA.

R. Misc. Rev. No. 59/2015-16

Seraj @ Sherajuddin Ansari Petitioner

- Versus. -

Most. Bhagwatia Devi Opposite Parties

1.6.2022

ORDER

Present revision has been filed by the petitioner against the Order dated- 17.03.2015 passed by Deputy Commissioner, Dumka in his R.M.R. Case No. 23/03-04 whereby and where under Deputy Commissioner, Dumka confirmed the Order of S.D.O Dumka passed in Rev. Misc. Case No. 92/1995-96.

The brief facts of the case of the Petitioner is that the Last Settlement Plot No. 339, appertaining of Jamabandi No. 15 of Mouza- Charkapathar measuring an area 05 Decimals has been acquired by Petitioner's wife Hamira Khatoon by P. P. Case No. 20/1986-87 as the Petitioner's wife was/is poor raiyat of Mouza- Charkapathar and similarly Md. Sarfuddin Son of Seraj @ Sherajuddin Ansari got 12 Decimals of land in said Plot No. 339 by Basgit Parcha granted by the Circle Officer, Saraiyahat, on the basis of Letter No. 11 Bhu. Ra. 10-1/95-64 Revenue Department, Bihar State and on the basis of Memo No. 344 - Rev. dt. 05.06.1995 in the same vide P. P. Case No. 44/95-96.

The further case of the petitioner is that after getting such settlement Petitioner constructed two stories Pucca Building over the entire area as settled and residing thereof as the Petitioner has five sons consist of big family and all his sons are residing with their family and children in that substantial house on the payment of rent regularly till now and the petitioner is paying rent before Karamchari and got the rent receipt.

The further case of the Petitioner is that the Opposite Party only to grab the house of the Petitioner filed a petition before Circle Officer, Saraiyahat for eviction to the Petitioner from his house and on the basis of which Circle Officer, Saraiyahat enquired out the matter and submitted the record to Learned S.D.O Dumka with his report that the Petitioner have got P. P. Patta in Plot No. 339 measuring an Area 05 Decimals in the name of Hamira Khatoon wife of Seraj @ Sherajuddin Ansari and 12 Decimals in the same plot in the name of Md. Sarfuddin son of Seraj @ Sherajuddin Ansari by Basgit Parcha and submitted his report in this regard, Circle Officer, Saraiyahat has specifically submitted that Opposite Party – Bhagawatia Devi only to blackmailing the Petitioner for money has filed this type of complaint and accordingly R. M. No. 92/95-96 came to be registered in the Court of S.D.O Dumka.

The further case of the petitioner is that S.D.O Dumka without noticed to the Opposite Party and without calling Show-Cause

from the Opposite Party has wrongly and illegally evicted this Petitioner along with 16 others vide Order dated 22.09.2001 instead of the Learned S.D.O Dumka fixed on 24.09.2001 for detail order, but no detail order have passed, thereafter the Petitioner filed Revision before Deputy Commissioner, Dumka as R.M.R Case No. 23/2003-04, Deputy Commissioner, Dumka wrongly and illegally rejected the Revision which is of course not tenable in law and as such the Order passed by S.D.O, Dumka as well as Deputy Commissioner, Dumka passed in R.M.R. 23/03-04 be set aside and allow the Revision. It is further submitted that this court has already setting -aside the impugned order earlier in the case bearing Rev. Misc. Rev. No. 39/15-16 Shivji Sah and Others Vrs. Most. Bhagwatia Devi.

The brief facts of the case of the Opposite Party is that she is the legal heirs of Last Settlement Khata No. 15 of Mouza- Charkapathar, Plot No. 339 is raiyati Non-Transferable Land and as such the S.D.O Dumka as well as Deputy Commissioner Dumka have rightly passed the orders and this Revision is fit to be dismissed.

Heard the Learned Lawyers, of both the parties and after perusal the documents available on the record it is transpired that Last Settlement Plot No. 339 appertaining to Khata No. 15 recorded in the names of Brihaspati Singh and Others, which is admittedly Raiyati Land. It is also admitted that Opposite Party Bhagwatia Devi is the

daughter-in-law of said Bhatu Singh, the son of Brihaspati Singh. It is also admitted fact, there is substantial double stories pucca building over the land in question which is evident from the report of Circle Officer, Saraiyahat. It is also reported by the Circle Officer, Saraiyahat that the Opposite Party Bhagwatia Devi only to blackmailing the Petitioner, filed petition for eviction, the Learned Court below has not considered this vital point. Admittedly the Circle Officer, Saraiyahat on the capacity of collector has issued the Basgit parcha on the basis of the letter issued by Revenue Department of the then Bihar State vide Letter No. 11/Bhu. Ra. 10-1/95-64 and the Memo No. 344/Rev. dated 05.06.1995 issued by Additional Collector, Dumka and the Petitioner name has been recorded in Register- II of Anchal Saresta and the Petitioner paying rent regularly.

In my opinion Learned Lower Court have failed to consider the case properly and have passed the impugned orders.

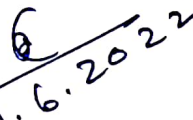
In view of above discussion the Order passed by S.D.O Dumka in R. M. Case No. 92/95-96 and Order dated 17.03.2015 passed in R.M. R Case No. 23/03-04 are not accordance with law as no eviction order can be passed over the house in question as per the decision passed by Hon'ble High Court reported in 1988 B.B.C.J Page No. 372 and this court earlier has already setting aside the impugned Order passed in R. M. R. No. 39/15-16 and therefore, the Order passed by

S.D.O Dumka in R.M.Case No. 92/95-96 and Order passed by Deputy
Commissioner, Dumka dated 17.03.2015 passed in R.M.R Case No.
23/03-04 are set aside and this Revision is hereby allowed.

It is directed to Settlement Authority to record the name of
the Petitioner in respect of the land in question as stated above.

Revision Allowed.

Dictated and corrected by me.


1.6.2022
Commissioner
S.P. Division, Dumka.


1.6.2022
Commissioner
S.P. Division, Dumka.