

आवेदन की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कार्यवाही के बारे में टिप्पणी तारीख के साथ
1	2	3
	<p style="text-align: center;">In the Court of Hon'ble Commissioner S.P. Division At- Dumka</p> <p style="text-align: center;"><u>Reve.Mise Revision No. 64/2017-18</u></p> <p style="text-align: center;">Uttam Layak & others _____Petitioners</p> <p style="text-align: center;">Versus</p> <p style="text-align: center;">Ram Gobind Sah & others____Opposite party.</p> <p style="text-align: center;">ORDER</p> <p>28/3/2022 The present revision was filed on behalf of the petitioners against the order dated 05.10.1987 passed by the Court of the Charge Officer S.P. at Dumka in his Mise. Appeal No. 163/1985, through which the learned Court had reverted the order dated 12.12.84 passed by the Court of the Asst. Settlement Officer Tasdik Camp Jarmundi in his T.L. Case No. 18 of 1984. This revision was admitted by this Court and the notices were served upon the opposite party. The deceased petitioner No. 1 was substituted by his</p>	

6

heirs.

The learned advocate of the petitioner has submitted that J.B No. 11 of mouza Bogali No. 21 was recorded in the names of Jalu Layak, S/o Mohan Layak and Nathu Layak, S/o Ugan Layak. The Plot no. 816 of the same Jamabandi having the total areas of 03 Bighas 12 Kathas 01 Dhurs of land was exclusively recorded in the possession of Jalu Layak. There has been creation of six new Plots from the old plot No. 816. The opposite party members had encroached some portions of plot no. 816. There had also initiated a T.L. Case No. 18/1984 for the New plots No. 1075, 1076, 1077, 1080, 1081 and 1084, which were carved out from the old plot no. 816 of J.B. No. 11 of mouza Bogali.

It has further been submitted that all the T.L. Cases were amalgamated with T.L. Case No. 18 of 1984. The opposite party had appeared before the learned Court of the Asst. Settlement

6

Officer and pleaded that their ancestors had got the entire areas of plot no. 816 in exchange in lieu of their plot no. 636. The learned Court of Asst. Settlement Officer was pleased to evict the opposite party from the new plots and delivery of possession was given to the petitioners. The opposite party members had preferred an appeal against the said order dated 12.12.84 of the learned Asst. Settlement Officer, Dumka, but the learned Court of the Charge Officer had wrongly and illegally set-aside the said order dated 05.10.87 in his Reve. Mise. Appeal No. 163/1985. So that the order of the Charge Officer be set-aside and the revision be allowed.

The learned advocate on behalf of the opposite party members has emphatically denied all the assertions made by the learned advocate of the petitioners. It has been submitted that there had been bonafied exchange of plot no. 816 of the petitioners with the plot no. 636 of these

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opposite party. The Jamabandi No. 47 of Mr. Gantzer's Settlement was recorded in the names of Raghubansh Sah and Babulal Sah, S/o Debi Sah and these opposite party are the heirs of the said R.T. of J.B.No. 47 of mouza Bagoli No. 21. That the R.T. Jalu Layak of J.B. No. 11 and R.T. of J.B. No. 47 Raghubansh Sah had exchanged their plots during their lifetime for mutual convenience and a deed of exchange was executed in between both the Recorded Tenants of both the Jambandis.

It has further been stated that during the present Settlement both the petitioners and opposite party members were recorded in possession of the respective exchanged plots. There had been initiated a T.L. Case No. 18 of 1984 against the ancestors of these opposite party in which they were evicted but the order of eviction was set-aside by the learned Court of the Charge Officer, Dumka vide his order dated

6

05.10.87 in Mise. Appeal No. 163 of 1985.

It has also been submitted that there had been filed a Title (P) Suit No. 21 of 1954 in between the ancestors of these opposite parties and it had been admitted in that title Suit that plot no. 636 was given to the ancestors of the petitioners in lieu of plot no. 816. The same version was admitted by the ancestors of the petitioners in Title (P) Suit No. 22 of 1972, which was for the partition of lands of J.B. No. 11 of mouza Bogali in which also admitted that they had received plot No. 636 in lieu of plot no. 816. The exchange was admitted by the raiyats of both the parties in their title Suits.

It has also been submitted that during the present Settlement Six new plots have been carved out from the old Plot no 816, which are New Plot No. 1075, 1076, 1080, 1081 and 1084. The plot No. 816 was exchanged on 13 Kartik 1333 corresponding 1926 and since then the

ancestors of both the parties are coming in continuous possession upon the respective exchanged land and have acquired their title upon the lands in question through adverse possession also.

It has also been submitted that according to the Attestation Rule the exchange is permissible for the bonafied mutual benefit of the raiyats. The learned Court of the Charge Officer S.P. at Dumka had rightly passed order and the same be confirm.

Heard both the learned advocates of the parties and had gone through the documents, which were filed on behalf of the parties concerned. This is a Case of exchange of the raiyati lands, which was done in the year 1926 as it was stated in the order of the learned Court of Charge Officer. There is provision u/s 18 (c) of Settlement Regulation 1872 "Any Raiyat" who has exchanged fields for other fields in the same

village shall be held to have acquired on occupancy right in the fields taken in exchange in the same manner as if no exchange had taken place. It has been proved that there had been exchanged of the lands in between the ancestors of the parties, which was admitted through the Title (P) Suit No. 22/1972 and Title (P) Suit No. 21 of 1954. The opposite party members have perfected their title upon the new plot no. 1075, 1076, 1077, 1080, 1081 and 1084 of mouza Bogli No. 21. The order passed the learned Court of Charge Officer Dumka in Mise. Appeal No. 163 of 1985 is confirmed and the revision is disallowed.

Dictated & Corrected


Commissioner S.P. Division
Dumka


28/3/2022
Commissioner S.P. Division
Dumka