

गई कारवाइ
पणी

IN THE COURT OF COMMISSIONER, S.P. DIVISION, DUMKA

R.M (Settlement Objection) Revision no. 150/2018-19

Kanhai Pal

....Petitioner

V/s

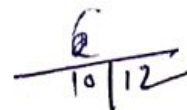
Dinesh Kumar Pal & anothers

....Opposite parties

ORDER

This instant Revision has been preferred by the petitioner against the order dated 09.03.2018 passed by the Settlement Officer, Dumka in Settlement Objection Appeal no. 184/2017 modifying the order dated 15.07.2017 passed by the A.S.O, Dumka in Objection Case no. 04/2017 where in the petitioner had claimed an area of lands measuring 30 decimals of plot no. 1084 (old) a Sabik Jamabandi no. 64/28 to record in his name in Current Settlement Parcha, Jamabandi no. 103 of mouza Shikaripara no. 03 in separate and exclusive possession and further claimed to get record an area measuring 1 decimal of plot no. 1085 (old) of said Jamabandi no. 64/28 (Sabik) jointly in the names of both parties of the same mouza in Current Khata no. 103.

The learned counsel of the petitioner argued, that the petitioner got settlement of an area measuring 5 katthas of plot no. 1084 in R.M.A no. 149 of 1966-67 vide order dated 16.12.1966 passed by A.D.C, Dumka and further possession was delivered by the C.O, Shikaripara passed on 27.12.1966 in favour of the petitioner and accordingly he came in exclusive separate possession of the settled area. It is further submitted by the petitioner that in the year 1952-53, he was settled with 20 decimals of lands in plot no. 1084 by the then Zamindar of the Estate and he has been coming in exclusive possession over the same by constructing his own house and planting several trees such as


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Neem, Jamun, Sishu, Mango, Jack fruit etc. as surrounded with wall over the said land.

Further submission of the petitioner's counsel is that an area measuring 1 (one) decimal of plot no. 1085 was settled jointly with the petitioner & his brother Balram Pal (Father of the O.Ps Dinesh Kumar Pal & Suresh Pal) in S.R. Case no. 85 of 1973-74 vide order dated 12.12.1973 passed by the then S.D.O, Dumka.

It is further submitted by the petitioner's counsel that during Present Settlement, the said old plot no. 1084 & 1085 have been amalgamated and created a new plot no. 1265, total area 31 decimals as entered in the Current Khatian of Jamabandi no. 103 of mouza Shikaripara no.03 and recorded as Izmal against which petitioner filed Objection Case no. 04/2017 but learned A.S.O, Dumka passed order dated 15.07.2017 directing to record 15 decimal of land exclusively in the name of petitioner Kanhai Pal and 16 decimals in the name of opposite parties Dinesh Kumar Pal and Suresh Kumar Pal S/o Balram Pal jointly.

Against the said order dated 15.07.2017 of A.S.O, Dumka the petitioner preferred an appeal bearing Settlement Objection Appeal no. 184/2017 in which the learned Settlement Officer, Dumka vide his order dated 09.03.2018, modified the order dated 15.07.2017 of A.S.O, Dumka with direction to record 15 decimals of land jointly in the name of petitioner & opposite parties and 16 decimals in Anavaad Khata and therefore, the Present Revision has been preferred by the petitioner Kanhai Pal claims to get record his settled land measuring 30 decimals in his name and 1 decimal jointly i.e. (both parties accordingly ordered of both the courts below are illegal, hence Revision of the petitioner may be allowed).

Learned counsel of the opposite parties vehemently opposed and by filling written statement and submitted that 31 decimals land were settled with both brothers jointly, therefore, the A.S.O, Dumka has rightly passed order to record 15 decimals of land in the name of petitioners and 16 decimals land to record in the names of opposite parties.

It is further stated by the learned counsel of that both the parties were members of joint family and therefore, the learned Settlement officer illegally passed order dated 09.03.2018 to record


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15 decimals of land jointly in the names of the both parties and 16 decimals to record in Anavaadi Khata but both the parties are in possession of entire lands and accordingly parcha of the Present Settlement should be remained in disputed.

Heard, the counsel of both parties, perused the documents submitted by the both parties and after considering the facts of the Case, I observe that the dispute in with regard to the settled land as well as Anavaadi land measuring area 31 decimals out of which the petitioner has claimed settlement of 30 decimals settled by the court of A.D.C and S.D.O, Dumka as well as by ex-landlord of the Estate in his favour against which the opposite parties created dispute for which the Present Revision filed by the petitioner with a prayer to set-aside the orders of both the lower courts allowing the Revision Petition of the petitioner.

In view of the above discussion, I opinioned that the orders of both the lower courts are liable to set-aside with a direction to record 30 decimals of land of plot no. 1265 (new) in the name of petitioner Kanhai Pal and 1 decimal of said plot no. 1265 in the name of opposite parties along with the petitioner of mouza Shikaripara no.03 within Anchal and P.S. Shikaripara, District Dumka.

Therefore, the Revision Petition of the petitioner is allowed.

Dictated & Corrected by me


10/12/2021
Commissioner

Santhal Pargana Division,
Dumka


10/12/2021
Commissioner

Santhal Pargana Division,
Dumka