
(2006) 09 JH CK 0041
In the Jharkhand High Court

Kanak Kumar Kar @ Kanak Kar

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-09-2006

Acts Referred:

Citation : (2006) 4 JCR 600

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

R.K. Merathia, J.—Heard.

2. Petitioner has filed this writ petition essentially for a direction upon the respondent No. 2/registering authority to register the sale deed presented on 29.3.1999 for registration.

3. It is submitted by Mr. Prasari, learned Counsel appearing for the petitioner, that when registration was refused on the ground that the land in question was Khasmahal land, petitioner filed a writ petition being CWJC No. 3873 of 2000, which was disposed of on 5.3.2001 with a liberty to the petitioner to approach the Deputy Commissioner, Ranchi, who was directed to look into the record, if necessary, hear the Additional Collector and give finding of fact relating to nature of land. Thereafter, the Deputy Commissioner passed the impugned order on 4.9.2001 as contained in the order sheet (Annexure-7) holding that the land is Khasmahal and it cannot be transferred without permission. He further submitted that in the said order itself, it is recorded that the Circle Officer, Town Anchal, Ranchi, in his report dated 18.5.1999 confirmed that the land was; not the Khasmahal but only on the basis of the entry in Register-I and then in Register-II, the authorities have refused to register the said sale deed.

4. Mr. Prasad further submitted that late Harenchandra Mukherjee was the owner and occupier of Chhaparbandi land measuring one and half bighas, situated on M.S. Plot No. 1478, holding No. 6 within Ward No. 7, Village-Konka, PS Lalpur, District-Ranchi. The said Harenchandra Mukherjee had two sons namely Sushil

Chandra Mukherjee and Subodh Chandra Mukherjee, who jointly inherited the said land. Subsequently, on or about 27.7.1966. the said property was partitioned between them by registered deed of mutual family partition. A part of the said land came in the share of Sushil Chandra Mukherjee. The said lands, which came in the share of Sushil Chandra Mukherjee. measuring 19 kathas. 2 Cluitakas and 13 sq. ft. comprised in the northern portion of municipal survey plot No. 1478. was marked as 1478A and 1478B. Thereafter, again two sons and two daughters of late Sushil Chandra Mukherjee partitioned the said land in equal shares. One of the sons namely Kalyan Mukherjee sold his 1/4th share to the vendor of the petitioner on 30.3.1984. That time, there was no objection for registering the sale deed on the ground that it was a Khasmahal land. But when petitioner sold the said land and presented the sale deed for registration on 29.3.1999, it is not being registered on the ground that it was a Khasmahal land. Referring the supplementary affidavit filed on 6.9.2006, he submitted that during pendency of this writ petition, other legal heirs of late Sushil Chandra Mukherjee. executed a sale deed dated 18.12.2004 (Annexure-9) with respect to the part of the same plot allotted in their shares and the same was registered without any objection.

Mr. Prasad, relied on the judgment reported in 2002 (3) JCR 152 Jhr Pankaj Kumar Harlalka v. State and submitted that similar order may be passed in this case.

5. Mr. Akhtar, learned Counsel appearing for the respondents, submitted that it is true that in the municipal survey, the name of Harenchandra Mukherjee was recorded as raiyat but subsequently in the Khasmahal survey, the land was found to be Khasmahal land and it was recorded in Register and II accordingly and in the municipal survey also they were shown as Khasmahal land by mentioning Khasmahal Plot No. 86. He further submitted that as the lands were recorded as Khasmahal Land, execution or non-execution of lease deed would not affect the status of the land as Khasmahal land.

6. In my opinion, the order of Pankaj Kumar Harlalka. (supra), is applicable in this case. In that case also, the authorities contended that the lands were Khasmahal lands on the basis of certain correspondences.

7. In the circumstances, the respondents are directed to register the sale deed in question, in accordance with law, as ex-peditiously as possible and preferably within a period of one month from the dale of communication of a copy of this order. However, it is made clear that if there is any statutory violation then it will be open to the respondents to take steps in accordance with law and in that event this order will not stand in their way. It is also made clear that mere registration of tin: said document will not confer any title unless the same is proved in accordance with law, if and when challenged.

With these observations and directions, this writ petition is disposed of. No costs. Petition disposed of.