

(2008) 03 JH CK 0062
In the Jharkhand High Court

Munshi Sao and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-03-2008

Acts Referred:

Citation : (2008) 2 JCR 599

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioners have prayed for quashing the order dated 30th May, 2007 passed in Mutation Revision Case No. 101 of 2005, whereby the revisional authority upheld the order of the appellate authority dated 4th February, 2006 passed in Mutation Appeal Case No. 7 of 2003-04.

2. According to the petitioners, the Circle Office after thorough consideration of the facts and documents on record came to the conclusion about the share of Akal Sao and Dhanua Devi and on that basis passed his order allowing the mutation in favour of the petitioners. The respondent No. 5 challenged the said order before the Land Reforms Deputy Collector, Ramgarh, Hazaribagh, who erroneously held that the Circle Officer has no jurisdiction to pass the said order and arbitrarily allowed the appeal of the respondent No. 5. The petitioners, thereafter, preferred revision before the Deputy Commissioner, who has upheld the order of the appellate authority by the impugned order.

3. It has been submitted that the Circle Officer has passed the order on the basis of the documents placed on record, which clearly goes to show the respective share of the parties. The Circle Officer, thus, has not determined the share of the parties, rather on the basis of the share already determined has allowed the mutation in favour of the petitioners.

4. Learned JC to SC (L & C) appearing on behalf of the State-respondents

contested the petitioners" claim and submitted that the revenue officer has no jurisdiction to decide a dispute regarding partition on the basis of title, which was done erroneously by the Circle Officer and that the appellate authority as well as revisional authority have rightly not upheld the order of the Circle Officer.

5. I have heard learned Counsel for the parties and perused the records. From the order of the Circle Officer, it is evident that he has determined the share of the parties and has allowed mutation on the basis of determination of respective share of the parties. The determination of the share or declaration of title is outside the jurisdiction of the revenue authority. As such, the order passed by the Circle Officer is without jurisdiction. The appellate and the revisional authorities have rightly held that the Circle Officer has no jurisdiction to go into the question of title and determination of the share of the parties. The orders of the appellate and revisional authorities are well discussed and thoroughly considered. There is no infirmity or illegality in the impugned order.

6. I, therefore, find no merit in this writ petition, which is, accordingly, dismissed. The petitioners, if so advised, may approach the competent civil Court and seek appropriate relief.