

आदेश की संख्या और तारीख

आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ

30-06-2016

In The Court Of: Land Reforms Deputy Collector, Arwal.
Case No. 101 / 2015-16

Ram Naresh Singh- applicant

Vrs.

Mahesh Singh & others- opposite parties

Present- Rakesh Kumar, DCLR

Learned Advocate of applicant

1. Sri Akhilesh Singh.

Learned Advocate of opposite parties

1. Sri. Devendra Mishra.

ORDER

Both the parties appeared at the time of hearing. The present case is related to

Schedule

Khata	Khesra	Area A- D	Boundary
146/22	79	0- 23 $\frac{1}{2}$	N-Awdhesh Singh S-Sarak E-Lagandeep Singh F/o Mahesh Singh (opposite party.) W-Niz 'bad' Simana Mirzapur

Mauza – Kinjer, P.S. No. 218, Kinjer, Dist- Arwal

The learned advocate of applicant submitted that land mentioned in schedule is an exchanged land of applicant's wife namely kaushilya Devi and it was done through registry office of jehanabad in year 1976 and accordingly revenue receipt has been issued on her name. Learned advocate mentioned the exchanged lands document no 12403 dated 10.08.1976 where Amir singh, Rojhan singh & Ganeshi singh all s/o Devmandil singh are first party and kaushaliya Devi is

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next party. He further stated that land mentioned in schedule-2 of exchanged document i.e. khata no. 05, khesra no.591, rakwa-48 dismal & khata no-72, khesra no- 550, rakwa 21 dismal, means altogether 69 dismal was of applicant which was given to second party and accordingly both parties are cultivating and have possession over the land. Learned advocate narrated that opposite parties has received as share of an area $5\frac{1}{2}$ dismal in said land as share among their joint family where as in north- Awdhesh singh. south-Naresh singh, East- Awdhesh singh, West -Naresh singh is mentioned. so it is clear that in boundary of opposite party name of applicant exists but opposite party is forcibly claiming N.H. 110 to be his boundary. so on that basis they started construction over the mentioned land so applicant informed the police and due to misbehaviour of opposite party p.s case No- 04/16 was filed in kinjar police station. Later, said land was measured by circle officer, karpi in absence of applicant. so the report was submitted in collusion with opposite party. so the situation at spot is highly tensed and to resolve the issue, case has been filed in this court. so learned advocate pleaded for measurement of said land and accordingly declaration of right as well as restoration of applicant's land.

Learned advocate of opposite party submitted that disputed land is khatiani land and it has been received after partition by opposite party, accordingly they are in possession and revenue receipts are issued to him. Learned advocate supported the claim of applicant that disputed land was received in exchange and total area

Bew

of that plot was 29 dismal and out of this, area of 23 dismal is of applicant from North to western side and $5\frac{1}{2}$ dismal from south to eastern side is of opposite party. Learned advocate said that circle officer, karpi has already measured & demarcated the area but applicants are unnecessarily harassing these opposite party. He informed that an application was given by applicant in local police station for initiating proceeding u/s 144 crpc but it was refused because applicant were found to be violater of peace at spot. Learned advocate also informed that notice for measurement was issued to applicants but they were absent from their home and children refused to receive notice and now they are protesting in court. Learned advocate alleged that it is self created dispute by applicant based on self created stories. Learned advocate of opposite party has also submitted written argument where he mentions that a wall of about five feet has been erected at spot by opposite party and writes that measurement & demarcation of disputed land was done in presence of private amin of applicant, circle officer karpi, revenue karamchari & revenue circle inspector and S.H.O. kinjar and no encroachment of land of applicant by opposite party was found at spot. Learned advocate has also submitted written argument in which photograph has been attached showing the member of applicant at spot and claims that videography of measurement proceeding was done and by looking it, situation will be clear that no dispossession has been done. Finally pleads for rejection of claim of applicant and dismissal of the case.

Beu

Heard the learned advocate of both the parties & perused the document available on record. Applicant has submitted kewala of year 11.07.1957 written in kaithi script & its translation, revenue receipt, khatiyān and written argument where as opposite party has submitted Amin report signed by both the parties, letter sent by circle officer karpi to S.H.O kinjar, malguzari receipt, a report related to disputed land by S.H.O. kinjar to honourable S.D.M. arwal and written argument. Further as per an order dated 26.05.2016 this court has received remeasurement report from Ravi kumar sinha, Anchal Amin Arwal dated 22.06.2016. This Amin has also submitted Attendance sheet signed by both the parties, Private Amin of both the parties, circle Officer, Arwal who was deputed as magistrate and other members of family who were present at spot. Learned advocate of applicant orally informed that he too was present at spot. However, Amin has also submitted Trace Map showing areas of concerning parties. The circle Amin has reported that area of applicant was measured and demarcated but area of opposite party remained partly undemarcated at spot due to opposition by applicant. However, in trace map, Amin has clearly shown the area of both the parties. As far as report is concern I had discussion with the Amin, he said that applicants at the beginning had some confusion in map but they mainly emphasized to measure and demarcate the land on basis of family


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partition document of opposite party. However, after looking documents it is found that kewala of opposite party is of year 1944 which is in name of his ancestor where as kewala which may be called "Dar kewala " of applicants is of 10.08.1976. So opposite party will always have first preference over land while measuring & demarcating it. Here it is to be clarified that the kewala of opposite party dated 05.06.1944 Basika (Document) No- 3812 was registered by khubsurti Devi, the "Fua" (Anuty) of Lagan Deep singh, the father of opposite party. This khubsurti Devi's total landed property was of 10 Acre 47 dismal. However, out this 03 Anna i.e. 75% of land was registered by her to four "Jaut " i.e. nephews namely Babu kailash singh, Babu Kavilash singh, Babu Raja Ram singh, Babu Avadh Behari singh and one Anna i.e. 25% of land was registered to Lagan Deep singh, the father of opposite party and to cousin of Lagan Deep singh namely Lal Bahadur singh. However, in family partition Lagan Deep singh received this registered land and Lal Bahadur singh got it some where else, as per share and schedule. However mentioned "jaut " of khubsurti devi sold $83\frac{1}{2}$ dismal of their land to Dwarika Prasad sao s/o Jhabbu sao through kewala dated 11.07.1957. However, later on Dwarika Prasad sao exchanged this land from Amir singh who in turn, gave an area of 69 dismal in registered exchange to kaushilya devi w/o

Bevi

Ram Naresh singh (applicant), so the lands of lagan deep singh and Ram Naresh singh are separate plot. However, in family of opposite party possibly a partition had taken place on 14.03.1992 where possibly by mistake in southern side name of applicant i.e. Naresh singh has been shown though it should have been "Road ". Moreover, this partition paper is not a registered document. so it has no legal validity. so, applicant's basis of suit is his kewala of year 1976 and that of opposite party's basis is kewala of 1944. As it is clear that applicants can not claim land on basis of partition paper of opposite party's family. Further it is also found that measurement report of Anchal Amin karpi dated 28.12.2015 is same as remeasurement report of Anchal Amin dated 22.06.2016. So this court directs both the parties to live as per measurement & demarcation done by both the Amin. Further, if opposite party feels that while remeasurement, his area of land has not been fully demarcated then he can get it done on basis of measurement report. It is also directed that report of Anchal Amin and documents related to it will be part of order.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


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Arwal.