

आदेश की क्रम
संख्या और तारीख

आदेश और पदाधिकारी का हस्ताक्षर

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

In The Court Of: Land Reforms Deputy Collector, Arwal.

Mutation Appeal No – 05/2011-2012

Shiv Kishor–Appellant

Vrs

Keshri Kumar.- Defendent.

Present- Rakesh Kumar, DCLR

Learned Advocate of appellant.

1. sri. Anil Sharma.

2. Sri. Binod Kumar Prabhakar.

Learned Advocate of Defendent.

1. Sri. Devendra Mishra.

ORDER

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

Schedule

Khata	Khesra	Rakwa A- D	Boundary.
117	472	02- 26 $\frac{1}{4}$	Not Mentioned
185	477		
123	etc		
124			
125			
etc			

Mouza- Belsar, P.S.- Mehnadiya, Anchal- Kaler, Dist- Arwal.

The learned advocate of appellant submitted that originally the case was between Mathura Singh (appellant) vrs Purushottam Sharma (Defendant). However, after their demise, their successors namely Shiv Kishor and Keshri Kumar has replaced them respectively as appellant and defendant. He also stated that Late Mathura Singh had appealed in court of DCLR, Jehanabad against the order of circle officer, Arwal who had mutated the land mentioned in schedule in favour

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of defendant. There after appellant filed an appeal in court of district collector, Jehanabad against the order of DCLR, Jehanabad who had approved the order of circle officer, Arwal. The appellant of the case requested learned district collector, Jehanabad to review the order of lower court in mutation revision case No.- 25 DM 89-90, Mathura Singh vrs Purushottam Sharma. However, learned collector, Jehanabad remanded the record to court of DCLR, Jehanabad with few direction's. He also informed that in mean time, appellant expired and orally said that District Jehanabad was partitioned and Arwal was carved out as new District. So record of this case kept lying in record room of Jehanabad and after struggling for many yrs, it has been brought here. Learned advocate also informed that case was initiated in year 2011 but unfortunately, it was diminished due to fire in local record Room. Learned advocate while arguing in court drew the attention towards the points raised in order of learned collector, Jehanabad which are as follows:-

- (i) Notice should be issued.
- (ii) Correct information should be taken regarding possession of the land.
- (iii) Geneological Table should be verified.
- (iv) It should be enquired & established whether the progeny of Late Khub Lal Singh lived as separate family or not ?

Learned advocate of appellant accepted the fact mentioned by defendant that appellant along his brother has filed a title suit impleading Keshari Kumar Singh s/o Grijesh Sharma & others in court of sub-Judge Jehanabad which has been transferred to civil court Arwal as T.S. No.- 214/2011 for further hearing and disposal. However, he opposed the contention of

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learned advocate of defendant that proceeding of this case should be stayed till Title of the case is decided by civil court. Learned advocate also alleged that defendant has illegally done kewala by misinterpreting the order of learned District collector which can be verified by perusing the documents. He emphatically said that concerning record was remanded back to DCLR office, Jehanabad but no order was passed in favour of keshri kumar, defendant. So learned advocate pleaded for disposal of the case as per direction of learned collector which should be leagally based on merit.

The learned advocate of defendant submitted that Late Mathura Singh had filed the mutation appeal No.- 10/87-88 for cancellation of demand opened in name of Late Purushottam Sharma. He informed that present defendant is his maternal grand son (Nati). He said that present record was remanded back to this court for just decision and enquiry after hearing concerning parties. Learned advocate further stated that pleading of appellant has no merit as then DCLR Jehanabad has already dismissed the relief sought by appellant on 05.04.1999. Learned advocate pleaded that Title suit has been filed in civil court by appellant against defendants, so order of this mutation case has no meaning, so its proceeding should be stopped till Title is decided by civil court.

Heard the learned advocate of both the parties & perused the documents available on record. Both the parties has submitted their documents and record related to mutation case from district jehanabad is available in which order of court of learned collector jehanabad in case No.- 25/DM/89-90 Mathura Singh vrs Purushottam Sharma is attached and order has been

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summarized and this court has to decide on lacunae found by honourable court of collector, which has been mentioned point wise by learned advocate of appellant. So after perusing the documents it is found that:-

- (i) Notice issued by circle officer as "Aam suchna" i.e. its Photostate copy is available in record. Further by this court notice has been issued to both the parties.
- (ii) A letter by A.S.I. of police station recommended by S.H.O. to SDM Arwal in P.V. No. 1431 dated 10.11.11. in case No.- 871/2011 U/s 145 of crpc, Ashok kumar s/o Late Dudheshwar Sharma vrs Mukesh kumar & others, it has been mentioned that second party has shown paddy. It means that second party had possession at that time but at present their possession is doubtful at spot.
- (iii) As far as Geneological Table (GT) is concern, defendant has submitted photo copy of it which has been issued by circle office. So as per this document Late Khub Lal Singh had three sons namely Ramautar Singh, Mussan Singh & Harvansh Singh. However, Ramautar Singh had two sons namely Vashishta Singh & Gaya Singh. This, Vashishta Singh has one son namely chandeshwar Singh & his son is Mukesh singh (appellant No.- 02) where as Late Gaya Singh had three sons name Ganpat Singh (appellant No.- 03) Jagya Singh (appellant No.- 04), Adhya Singh @ Shravan Singh (appellant No.- 04), where as Late Harvansh Singh had two sons name Harihar Singh and Gobardhan Singh (issueless) Late Harihar Singh's only son is Late Mathura Singh (appellant No.- 01). The Late

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Mussan Singh had only son Late Ram Nandan Singh (issueless) and Late Ram Nandan Singh's " Bhagina" i.e. son of his sister was Late Purushotam Sharma. So as per this document, he is successor of the property of Late Mussan Singh.

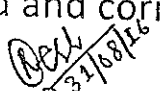
(iv) The defendant has submitted a kewala of year 1971 and its detail is as follows:-

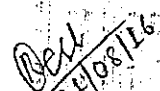
khata	Plot	Area A-D	Boundary
117	2727	0-10	N-Chaneshar Singh & Janki Singh. S- Ganpat Singh. E-Mathura Singh & Khariddar ke plot. W- Lal Pari Devi.

was purchased by Late Mathura Singh (original appellant of this case) from Jagya Singh (one of the original appellants) s/o Gaya Singh. This document is a proof that sons of Late Khub Lal Singh lived as separate family and had partitioned the ancestral property then only Jagya Singh could sale his land to cousin Mathura Singh.

So based on above fact, as well as acceptance by both the parties that title of land mentioned in schedule is proceeding in civil court Arwal, this court can not set a side the order of learned circle officer Arwal who has done mutation in favour of defendants and it was approved by then DCLR, Jehanabad also. So the claim of applicant is rejected and case is dismissed.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


Land Reforms Deputy Collector
Arwal