

आदेश की क्रम
संख्या और तारीख

आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर निर्दिष्ट
कारवाही के लिए
दिप्यणी तारीख
साथ

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

Mutation Appeal No – 12/2015-2016

Shyam Babu Mishtri–Appellant

Vrs

Anchal Adhikari &

Maheshwar Mishtri & others.- Defendent.

Present- Rakesh Kumar, DCLR

Learned Advocate of appellant.

1. Sri. Shailesh Sharma.

2. Sri. Binod Kumar Singh.

Learned Advocate of Defendent.

1. Sri. Arvind Kumar.

2. Sri. Pashupati Nath.

ORDER

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

Schedule

Khata	Plot No	Area A-D	Boundary.
21	208	0-15	-

Mouza- Basilpur, Anchal+ P.S. + Dist- Arwal. (Bihar)

The learned advocate of appellant submitted that land mentioned in schedule is khatiani land of appellant which is in name of his ancestor namely Nemdhari Mistri. He informed that Late Nemdhari Mishtri had two wives, the appellant is progeny of first wife where as opposite parties are off springs of second wife. Learned advocate has submitted Geneological Table (GT) of the family and stated that Late Nemdhari Mishtri had two sons from first wife namely Late Beekau Mishtri & Late Sikau Mishtri. The Late Beekau had two sons namely Late Ramdeo Mishtri & Late

Beekau

26-08-2016

Sahdeo Mishtri. The Late Ramdeo had three sons namely Late Ram Babu Mishtri, Shyam Babu Mishtri (appellant) & Umesh Mishtri. Late Ram Babu had two sons namely Abhishak Mishtri & Ajay Mishtri. The Umesh Mishtri has three sons namely Vicky, Banti & Sunni where as Late Sahdeo Mishtri also has three sons namely Munna Kumar, Deepak Kumar & Raju Kumar. Learned advocate further mentions that second wife of Nemdhari Mishtri has three sons namely Late Vriksha Mishtri, Late Haricharan Mishtri & Late Jay Nandan Mishtri. The late Vriksha Mishtri had two sons namely Late Sakal Deep Mishtri & Ramchandra Mishtri. The sakaldeep has three sons namely Bare Mishtri, Kamlesh Mishtri & Ram Vinay Mishtri where as Ramchandra Mishtri has two sons namely Bijendra Mishtri & Surendra Mishtri @ Shailesh Mishtri. However, Late Haricharan Mishtri has two sons namely Chandreshwar Mishtri & Maheshwar Mishtri. Further, Late jay Narain Mishtri had two sons namely Late Roop Lal & Late Babu Lal. The Late Roop Lal had four sons namely Dasrath Mishtri, Late Govind Mishtri, Late Sakaldeep Mishtri & Late Ramakant Mishtri where Late Babu Lal has four children namely Kaushalya Devi, Sushila Devi, Basanti Devi & Nanhaki Devi. The learned advocate of appellant submitted that Late Beekau Mishtri was eldest member of the family and demand of whole land of family was in his name, though partition in family took place even in new generation but demand continued in his name. Learned advocate mentioned that out of total area of 15 dismal of Late Nemdhari Mishtri, two of his wives received an area of $7\frac{1}{2}$ dismal each as a share and accordingly Late Beekau & Seekau received share of $3\frac{3}{4}$ dismal each as per oral partition. So as per share of Late

Beekau

Beekau Mishtri, his two sons namely Late Ram Deo & Late Sahdeo received $1\frac{7}{8}$ dismal each and accordingly one of the sons of Late Ramdeo Mishteri's is appellant who has filed the case as head of his family. Learned advocate alleged that Local Karamchari has wrongly reported to circle officer and on that basis land has been mutated on 23.05.2015 in name of Late Sakaldeo Mishtri who had expired on 22.4.2015. Learned advocate stated that demand of disputed land is in name of ancestor of appellant then he questioned without assent of his family members, how partition case No 2145 dated 23.05.15 was sanctioned by circle officer, Arwal. He said that in document name of purchaser is Maheshwar Mishtri where as seller is Beekau Mishtri. Learned advocate emphatically said that none of them is seller or purchaser of land. Learned advocate tried to draw the attention to wards documents of circle officer where neither the signature of Ramakant Mishtri nor Sakaldeo Mishtri exists, So how permission for mutation was given by circle officer. Learned advocate also stated that in notice which was issued by circle office, there is no signature of circle officer and in addition to it many columns of notice is blank and there is no proof of serving notice to concerning parties of the case. Finally, learned advocate argued that circle officer has not followed the rules prescribed under mutation Act, So the order passed by circle officer in case No. 2145 is illegal, So this court should set- a side the order of circle office given in mentimed case.

The learned advocate of defendents has not submitted any written statement but has informed in an application that T.S. No- 02/15 is pending in court of

Beek

sub-Judge Arwal in relation to land mentioned in plaint. He has requested to stay the proceeding of this case till the decision of civil court in said T.S. case.

Heard learned advocate & perused the documents available on record. Appellant has submitted written argument and LCR from circle office Arwal is available. However, after looking documents it seems that proper notice was not served to appellant's family. Further, there are lacunae in LCR of circle officer and it is possible that allegation of appellant may be true regarding false signature of his family members. However, since the defendant has filed the Title suit related to that land in Honourable civil court, Arwal, so it will not be proper to pass any order at this stage as Title will itself decide future course of action in mutation related to disputed land.

Dictated and corrected

Bell
26/08/16

Land Reforms Deputy Collector
Arwal

Bell
26/08/16

Land Reforms Deputy Collector
Arwal.