

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ																
12-09-2016	<p>In The Court Of: Land Reforms Deputy Collector, Arwal. <u>Case No. 102/ 2015-16</u> Chinta Devi- applicant Vrs. Shail Kumari & others- opposite parties Present- Rakesh Kumar, DCLR <u>Advocate of applicant</u> 1. Md. Javed Khan. 2. Kumar Satyendra Pratap Singh. <u>Advocate of opposite parties.</u> 1. Sri . Anil Sharma. <u>ORDER</u> Both the parties appeared at the time of hearing. The present case is related to <u>Schedule- 01</u></p> <table border="1" data-bbox="311 1081 1294 1406"> <thead> <tr> <th>Khata</th> <th>Plot No</th> <th>Rakwa A- K-D</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>58</td> <td>05</td> <td>0-01-0</td> <td>N- Opposite Parties (Shambhu Sao) S- Sita Sao. E- Shiv Narain Sao. W- Applicant, Chinta Devi.</td> </tr> </tbody> </table> <p><u>Schedule-02</u></p> <table border="1" data-bbox="311 1451 1294 1727"> <thead> <tr> <th>Khata</th> <th>Plot No</th> <th>Rakwa A- K-D</th> <th>Boundary</th> </tr> </thead> <tbody> <tr> <td>58</td> <td>05</td> <td>0-04-0</td> <td>N- Govind Sharma. S- Sita Sao. E- Baran Sao. W- Rasta.</td> </tr> </tbody> </table> <p>Both the schedule is situated at Mauza- Balidad, Anchal+ Dist- Arwal. The learned advocate of applicant submitted that applicant has purchased the land of khata-58, plot No.-</p>	Khata	Plot No	Rakwa A- K-D	Boundary	58	05	0-01-0	N- Opposite Parties (Shambhu Sao) S- Sita Sao. E- Shiv Narain Sao. W- Applicant, Chinta Devi.	Khata	Plot No	Rakwa A- K-D	Boundary	58	05	0-04-0	N- Govind Sharma. S- Sita Sao. E- Baran Sao. W- Rasta.	
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05 comprising an area of 02 kathas of land from kauleshwari Devi w/o Mahavir sao through two kewalas dated 29.12.1997 and accordingly it was mutated and they are paying rent to govt. He further informed that in said land, applicant constructed her house in area of 01 kattha towards western side, however her vendor had constructed boundary wall of 20 inches in breath x 05 feet in height towards northern- southern & Eastern side. He also informed that applicant's husband works in a Thermal power, Faridabad, so she also lives with him. Learned advocate further submitted that when she came to her home at Balidad, Arwal on 10.12.2015 then found that opposite parties has broken the Northern boundary and by constructing the new boundary has taken the possession of her land mentioned in schedule-01. Learned advocate while arguing in court said that disputed land comprising an area of two desimal is "Marusi" land of Zaddu sao who had two sons namely shambhu sao M/o Shiv Dulari Devi and Mahavir sao M/o Kauleshwari Devi. He said that jaddu sao had registered a deed pf gift on 01.05.1981 of mentioned land to kauleshwari Devi but later by cancelling it, gifted to both the daughter in laws on 13.07.81. He also said that khata-58 is a larger plot and it comprises of $17\frac{1}{2}$ Bigha of land, so it has been partitioned into smaller plots. Learned advocate said that her vendor is kauleshwari Devi, So her land should be measured and demarcated, So that dispute can be resolved at spot.

Learned advocate of opposite parties submitted that land mentioned in schedule-02 is of Shiv Dulari

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Devi w/o Shambhu sao, the mother of opposite party shail kumari as she had received it from registered Bakshishnama on 01.05.1981 from yaddu sao as Late shiv Dulari Devi had looked after him at his old age. Learned advocate said that kauleshwari Devi is issueless where as shiv Dulari Devi has two daughters namely shail kumari & Bimala kumari. Learned advocate in forms that after "Bakshishnama", said land was mutated in name of shiv Dulari Devi and after her demise, "Jamabandi" has been created in name of shail kumari (opposite party-01). Learned advocate said that yaddu sao died in year 1989 and applicant purchased it in 1997 from kauleshwari Devi who had no right to sale the land. He emphatically said that "Bakshishnama" done in favour of shiv Dulari Devi was never cancelled by any competent court, until it is done, kauleshwari Devi can not get the right in that property ?. Learned advocate further asserted that kauleshwari Devi has no right to sale the land in life time of her husband namely Mahavir sao, So the kewala of applicant is false & fabricated, so learned advocate pleaded for dismissal of the case as it involves question of Title.

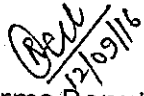
Heard the learned advocate of both the parties & perused the documents available on record. Applicant has submitted kewala & revenue receipts where as opposite party has submitted kewala done to shiv Dulari Devi by Jugeshwar Dubey & Tapeswar Dubey and a "Bakshishnama" done by yadu sao to shiv Dulari Devi dated 01.05.1981 and revenue receipt. After looking the documents it is found that in kewala of applicant, it is mentioned that her vendor kauleshwari Devi had received the land mentioned in

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schedule-01 through "Bakshishnama" dated 13.07.1981 from her father in law namely yadu sao along with her "Gotini" i.e. wife of her husband's brother. However, in "Bakshishnama" dated 01.05.1981, yadu sao has done "Bakisis" only to shiv Dulari Devi w/o Shambhu sao. So the arguments given by learned advocate of opposite party has merit as his client's 'Baksish' has legal validity as its of prior date and it has not been cancelled by any court of law. So in such a situation, applicant can not claim over the disputed land as right of her vendor on said land is doubtful as per documents available in record. Thus, this court can not give any relief to applicant, her claim is rejected and case is dismissed.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


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Arwal.