

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 - 07/2017-2018

Nand Lal Prasad & others -Appellant

Vrs

Beer Ratan Prasad- Defendent.

Present- Rakesh Kumar, DCLR

Learned Advocate of appellant.

1. Sri. Anil Sharma.

Learned Advocate of Defendent.

1. Sri. Arvind Kumar.

ORDER

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

Khata	Plot	Rakwa A-D	Remarks
66	526	0-09	Schedule-01 as per partition document attached in mutation case.
90	461	0-10	
207	762	0-05 $\frac{1}{2}$	
181	769	0-04	
182	1284	0-13	
		0.41 $\frac{1}{2}$	

Khata	Plot	Rakwa A-D	Remarks.
66	327	0-06 $\frac{1}{2}$	Schedule-02 as per partition document attached in mutation case.
66	985	0-04	
67	361	0-15 $\frac{1}{2}$	
67	1049	0-17	
86	802	0-02	
204	689	0-03 $\frac{1}{2}$	
67	585	0-02 $\frac{1}{2}$	
		0.51	

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27-06-2018

Khata	Plot	Rakwa A-D	Remarks.
115	226	0-08	Schedule-03 as per partition document attached in mutation case.
207	762	0-03	
181	638	0-06	
182	1284	0-13	
66	453	0-011	
204	761	0-01	
		0.42	

Mauza-Phalsathar, PS +Anchal-Kurtha, Dist-Arwal.

The learned advocate of appellant submitted that mutation Appeal has been filed in this court against the order passed by learned Circle Officer Kurtha in mutation case No-51/2014-2015 dated 22.05.2014 & 23.05.2014. He alleged that applicant of said mutation case namely Sri Beer Ratan Prasad had filed a forged partition document which is different from original "Panchnama" and based on that artificial Notices were prepared and it was not served to appellants namely Nand Lal Prasad & Bechan Prasad both S/o Late Sadhu Sharan Sao, infact their signature were forged to show that they have received the notices issued from circle office. Learned advocate claimed that defendant has shown more than his share in "Panchnama" and said that report submitted by circle karamchari & kutchhary sarpanch are different though both the parties are own brothers and demand of joint family property existed in

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name of their father. Learned advocate claimed that even residential house of Nand Lal Prasad (appellant No-01) in which he is residing with family has been mutated in favour of defendant. He further submitted that Bechan Prasad (appellant No-02) came to know about the order passed by circle officer, when he had gone to update the revenue receipt in name of his father. Learned advocate has alleged in written argument that Revenue Karamchari reported in favour of defendant without visiting the spot and accordingly it was approved by Circle Inspector to circle officer though defendant doesn't have possession over the land as per "panchnama" given by defendant to circle office. Learned advocate while arguing in court drew attention towards an application given to circle office kurtha allegedly by both the parties where it is mentioned that all three brothers has partitioned their property after three yrs of demise of their father. However, that application has been forwarded by Honourable Sarpanch Sumanti Devi to circle officer, Kurtha, where she mentions that partition among three brothers had taken place in life time of their father and in addition to it, he also pointed out many other discrepancies and claimed that in "Panchnama" of defendant, the witnesses has refused to recognize their

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signature and has given in writing to applicants that their signature has been forged. Learned advocate said that after the mutation order of circle officer record of that case lost as Anchal Amin has given about it in writing that wanted record is missing, so certified copy can not be given, however, due to efforts of applicants, they could obtain certified copy of mutation case No-51/2014-2015 from circle office, Kurtha. So based on above arguments, learned advocate pleaded for cancellation of mutation order passed by circle officer kurtha in favour of defendant.

Learned advocate of defendant submitted that both the parties are own brothers, so the claim of applicants that they didn't know about the mutation order of circle officer is not believable, so the appeal filed by them is barred by time limitation. He informed that appellants lived out of home where as defendant lived in village along with his wife Malti Devi and they together had taken proper care of their parents. So due to this service, his father Sadhu Saran Sao gifted landed property of 01 Acre 32 desimals on 10.04.2006 to Malti Devi W/o Defendant. However, due to request of appellants of this case, defendant didn't take any advantage of that gift but after nod of appellants, their father gave an area of 00.09 desimals more than share given to other sons and accordingly "Panchnama" was prepared which was signed by Sadhu Sharan Sao & other respected co-villagers and accordingly land has been mutated by Circle

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officer. Learned advocate claimed that defendant is in possession of land as per schedule and based on that karamachari & sarpanch has reported in favour of defendants. However, learned advocate alleged that appellants had also prepared a "Panchnama" and defendant was forced to sign that partition document. He also informed that defendant has two flats in a building and in one of them he resides with family and another has been rented by defendant to "Angan Bari Kendra" though "Sevika" of that Kendra is daughter in law of one of appellants and she attends that Kendra but resides in Jehanabad. Learned advocate said that circle officer Kurtha has correctly passed the order by following rules of mutation and appellants has filed the case to harass the defendant. So learned advocate pleaded for rejection of relief sought by appellants & dismissal of the case.


Heard the learned advocates and perused the documents available on record. Appellant has submitted photostate copy of Death Certificate of his father who expired on 23.02.2007, copies of mutation order of circle officer along with documents of partition other documents and both the parties has submitted written argument. Further, LCR from circle office is available on record. So after looking these documents it can be said that defendant's claim regarding having possession over residential room doesn't seems to be correct as one of the rooms has been rented for ICDP Kurtha by Girijesh Prasad to Geeta Kumari, the Anganbari Sevika and both of them are respectively son & daughter in law of appellant namely Nand Lal Prasad and

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as per rent receipt, it is clear that rent is not being received by defendant. Further, appellant has submitted an affidavit, certified by Rajendra Singh. Notary public, Civil Court Arwal (Bihar) that in a document attached in mutation case No-51/14-15, the persons namely Saryu Singh, Ram Avadh Singh, Aklu Singh, Vidya Singh, Ramdaheen Verma & Ram Swaroop Sao has not signed it. So prima facie, it seems that documents related to notices & partition has been forged by defendant and mutation has not been done as per possession of spot. So there is contradiction in statements of defendant and documents attached to this case. So this court directs circle officer Kurtha to cancel the mutation done in favour of defendant. However, a fresh application can be taken up from concerning parties and after following due procedure of of law, their land can be mutated as per partition & possession of land at spot.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


Land Reforms Deputy Collector
Arwal.