

| आदेश की क्रम संख्या और तारीख | आदेश और पदाधिकारी का हस्ताक्षर | आदेश पर की कारवाई के बाटिप्पणी तारीख साथ | | | | | | | | | | | | |
|------------------------------|---|--|---|----------------|-----------|----|-----|-------|---|----|------|-------|--|--|
| 19-07-2018 | <p align="center"><u>In The Court Of: Land Reforms Deputy Collector, Arwal.</u></p> <p align="center">Mutation Case No – 04/2018-2019</p> <p align="center">Sarita Devi –Appellant</p> <p align="center">Vrs</p> <p align="center">Dharmendra Singh- Defendent.</p> <p align="center">Present- Rakesh Kumar, DCLR</p> <p align="center"><u>Learned Advocate of appellant.</u></p> <p align="center">1. Sri. Anil Sharma.</p> <p align="center"><u>Learned Advocate of Defendent.</u></p> <p align="center">1. Sri. Gauri Shanker Mishra.</p> <p align="center"><u>ORDER</u></p> <p align="center">Both the parties appeared and present case is related to</p> <p align="center">Schedule</p> <table border="1" data-bbox="395 873 1369 1348"> <thead> <tr> <th>Khata</th> <th>Plot</th> <th>Rakwa B-K-D</th> <th>Boundary.</th> </tr> </thead> <tbody> <tr> <td>74</td> <td>336</td> <td>0-4-0</td> <td>N-Muni Lal Singh. S-Ram Pravesh Singh. E-Arjun Singh. W-Niz Mokir.</td> </tr> <tr> <td>74</td> <td>1321</td> <td>0-9-0</td> <td>N-Mithilesh Yadav. S-Munarik Yadav. E-Niz Mokir. W-Arjun Singh.</td> </tr> </tbody> </table> <p align="center">Mauza-Daura, PS-Rampurachauram, PS No-67, Anchal-Karpi, Dist-Arwal.</p> <p>The learned advocate of appellant submitted that disputed land was originally of Lakhpatiya Devi the grand mother of Chanarik Singh H/O Man Matiya Devi, this couple had no male child as offspring but had two daughters namely Late Kusiya Devi Mother of Shivshanker Kumar and Zeera Devi alias Pushpa Devi. Learned advocate informed that in khata-74, plot-336, rakwa-12.5 desimals of land was purchased by Sarita</p> | Khata | Plot | Rakwa B-K-D | Boundary. | 74 | 336 | 0-4-0 | N-Muni Lal Singh. S-Ram Pravesh Singh. E-Arjun Singh. W-Niz Mokir. | 74 | 1321 | 0-9-0 | N-Mithilesh Yadav. S-Munarik Yadav. E-Niz Mokir. W-Arjun Singh. | |
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(Signature)

Devi W/O Manoj Kumar (applicant No-01) from Shivshanker Kumar S/O Keshav Yadav & Late Kusiya Devi through registered kewala dated 29.12.2015. Learned advocate further submitted that in khata-74, plot-1321, rakwa of 28.125 desimals was registered to all appellants namely Sarita Devi, Manoj Kumar, Jai Prakash Singh, Dharmendra Singh, Manju Devi, Yogendra Singh, Chandravilas Singh & Radhey Singh on 24.05.2016 by Zeera Devi alias Pushpa Devi W/O Mahendra Singh. However, he informed that basis of this kewala was registered "Bai-Bayana" dated 04.01.2016. Learned advocate informed that op has purchased the land from Ram Kewal Singh S/O Late Musaffir Singh & Mosmat Anupa Devi. He alleged that Mutation was done on basis of existing 'Jamabandi' in name of grand mother in law of op's vendor. He alleged that no spot inspection was done by karamachari and no notices were sent to descendants of Lakhpatiya Devi, and he emphatically said that defendant doesn't have possession over the disputed land. Learned advocate while arguing in court informed that op has filed cases in court in SDM, Arwal U/S 144, 188 & 107 and in this connection read out the report of circle officer & SHO and none of the report proves that that op has possession over disputed land. Further, in mutation order of circle officer, report of KC & CI are silent on issue of possession and informed that appellant's had taken registered mortgage from Zeera Devi & after that date op had got it registered in his favour & op wants me to go for cancellation of kewala to civil court. If op thinks kewala of applicant to be faulty then he should get my kewala cancelled. Learned advocate drew attention towards the Non Judicial stamps of op on which registration has been done and

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alleged that Non-Judicial stamps of op were purchased for "Bai-Bayana" but registration of disputed land has been done on that paper which is illegal and circle officer karpi didn't look into the facts related to kewala & possession, as well as no notices were sent to descendants of Late Chanarik Singh. Learned advocate mentions in written argument that defendant had applied for mutation through RTPS but it was rejected but later he reapplied then it was mutated and alleged that it was done in collusion with office staffs. So he pleaded for cancellation of mutation case No-1762/2017-2018 done in favour of defendant, so that proper hearing can be done by circle officer karpi.

Learned advocate of defendant submitted that land mentioned in schedule is purchased land of defendant and his vendor is Ramkewal Singh S/O Late Musaffir Singh & mosmat Anupa Devi W/O Late Chenarik Singh and its kewala document No is 73 dated 07.01.2016. Learned advocate stated that after purchase of land, defendant is in possession of this disputed land and in this connection he submitted the Geneological Table of vendor and said that Late Khoob Lal Yadav had two sons namely Late Ganga Yadav & Late Rakshya Yadav F/O Late Fakira Yadav. Further, Late Fakira Yadav had only son namely Late Deo dhari Singh H/O Late Lakhpatiya Devi and their son was Late Jaggu Singh F/O Chenarik Singh. This Chenarik had two wives namely Late Manmatiya Devi (First Wife) and Mosmat Anupa Devi (Second Wife) & vendor of defendant. However, Manmatiya had two daughter namely Zeera Devi alias Pushpa Devi and Late Kusiya Devi W/O Kesav Singh and her son is Shiv Shanker Singh. Learned advocate said that original demand holder is Late Lakhpatiya Devi, the grand daughter in law of Anupa

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Devi and informed that Late Chanarik didn't have male child, so after taking assent from first wife Manmatiya, he married the deaf & dumb girl namely Anupa Devi. However, Mosmat Anupa remained childless, so children of Manmatiya started torturing her, so she left house of her late husband and came to residence of her Mother namely Mungiya Devi & brother Ram Kewala Singh. So as per her requirement & right over disputed land, they sold the disputed land to defendant. Learned advocate pointed out that kewala of defendant dated 07.01.2016 is of earlier date than of appellants. Learned advocate also quoted case No-31/13-14 Kanhai Singh vrs Satyendra Singh of this court, filed under BLDR Act and its order was passed on 30.11.2013. He said that in this case vendor of Kanhai Singh was Shivshanker Singh & his father Keshav Singh and that of Satyendra Singh was Mungiya Devi & her daughter Anupa Devi and disputed land in this case was of khata No-74 and plot No-329.area-06 desimals & in spot inspection, it was found by then DCLR that possession was of opposite party. So based on this order, learned advocate claimed that Mosmat Anupa Devi had right, title & possession over sold land. Learned advocate also informed that vendor of op has also sold land to Ram Geet Singh S/O Late Jagdeo Singh through kewala document No-2340 dated 27.05.2004 and this land is in khata-74, plot-307, Rakwa- $12\frac{1}{4}$ desimals and khata-74, plot-318, Rakwa- $2\frac{1}{2}$ desimals and these land has been mutated & revenue receipts has been issued to purchaser, so in this case also kewala of op is valid as it has not been challenged in any court of law. Learned advocate also informed that appellant's vendor Shiv Shanker's father Keshav Singh had filed a case No-

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36/2016 in Honourable court of CJM, Arwal against Ram Kewal Singh & others and based on it, Arwal Ps case No-120/16 was registered U/S 420, 467, 468, 471, 504, 505 & 506 of IPC dated 31.08.2016. So as per investigation report of this case, Late Chenarik had two wives and one of them is Mosmat Anupa and Investigating officer found it to be case related to land dispute. Learned advocate has mentioned in written argument that purchased land of defendant was mutated by circle officer on 08.02.2018 and refuted the claim of appellant that report of karamchari & circle Inspector are silent on issue of possession and has drawn attention towards their report which is mentioned in last para that defendant is in possession of his purchased land. Learned advocate further states that letter No-570 date 14.07.2017 sent by circle officer karpi to SDM, Arwal in connection with case No-976/2016 is with out opinion of circle officer in relation to possession of land and similarly report sent by Police Station Rampurchauram, Arwal is dated 20.07.2017 and over these report, latest report on mutation order of circle office karpi is more valid. Learned advocate accepts that mortgage was done by vendor of appellant to Late Munarik Yadav but states that Mortgage prd had expired and it was not renewed in favour of his successors as it not mentioned in their kewala. Finally learned advocate said that circle officer karpi has rightly passed the order in favour of defendants after following due procedure of law in Mutation case No-1762/17-18 dated 20.02.2018, So he pleaded for rejection of claim of appellant dismissal of the case.

Heard the learned advocate and perused the documents available on record. Appellant has

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submitted kewala, documents related to Mortgage of disputed land & advance money paid for purchase of disputed land, Report of police station Rampur Chauram & circle officer karpi, photocopy of rejected application of defendant & other documents where as defendant has also submitted kewala, rent receipts, order of DCLR court in case No-31/13-14 Kanhai Singh vrs Satyendra Singh & other, report of S.H.O. Arwal submitted in Honourable court of CJM, Arwal in case No-36/16 and accordingly supervision report of SDPO, Arwal & SP, Arwal. So after looking these documents it can be said that dispute related to land mentioned in schedule is because appellants has purchased the land from descendants of first wife of Late Chanarik Singh where as defendant has purchased the same land from second wife of Late Chanarik Singh. So in this case, Title of disputed land is to be decided, though it is possible that disputed land may have been forcibly occupied by appellants due to numerical strength as earlier reports of S.H.O. & Rampur Chauram & circle office, Karpi is in their favour but it is surprising that same circle office has later mutated in favour of defendant though earlier application of defendant was rejected because of non availability of 'Jamabandi' in name of vendor of defendant. So in such a situation, as per advise of learned advocate of appellants latest report of circle officer karpi was required and accordingly a letter No-570 dated 12.07.2018 was sent to circle officer, karpi and this office received report from circle officer karpi

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vide his letter No-450 dated 16.07.2018 so as per latest report defendant had possession over the disputed land and at present, due to dispute, the said land is barren at spot. The learned circle officer karpri has mentioned in detail about the disputed land along with Geneological Table of the vendors. So after looking this report, this court can not give any relief to appellants till their title is decided by the compentent court. Thus, claim of appellants are rejected and case is dismissed.

Dictated and corrected

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19/07/18
Land Reforms Deputy Collector
Arwal

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19/07/18
Land Reforms Deputy Collector
Arwal.

