

आदेश की क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी तारीख के साथ																																																											
22-02-2019	<p align="center">In The Court Of: Land Reforms Deputy Collector, Arwal. Mutation Appeal Case No – 08/2018-2019 Ajeet Kumar Verma–Appellant Vrs Vishwa Nath Lal & others- Op. Present- Rakesh Kumar, DCLR <u>Learned Advocate of appellant.</u> 1. Sri. Gauri Shanker Mishra. <u>Learned Advocate of Defendent.</u> 1. Sri. Bhikhari Singh. 2. Sri. Vimal Kumar Singh.</p> <p align="center"><u>ORDER</u></p> <p>Both the parties appeared at the time of hearing. The present case is related to</p> <p align="center">Schedule</p> <table border="1" data-bbox="336 936 1273 1697"> <thead> <tr> <th>Khata</th> <th>Plot No</th> <th>Area</th> <th>Boundary</th> </tr> </thead> <tbody> <tr><td>130</td><td>245</td><td>0-89</td><td rowspan="18"></td></tr> <tr><td></td><td>246</td><td>0-63</td></tr> <tr><td></td><td>248</td><td>0-21</td></tr> <tr><td></td><td>253</td><td>0-45</td></tr> <tr><td></td><td>254</td><td>0-91</td></tr> <tr><td></td><td>255</td><td>0-06</td></tr> <tr><td></td><td>256</td><td>0-30</td></tr> <tr><td></td><td>257</td><td>0-11</td></tr> <tr><td></td><td>258</td><td>0-73</td></tr> <tr><td></td><td>259</td><td>0-20</td></tr> <tr><td></td><td>262</td><td>0-30</td></tr> <tr><td></td><td>263</td><td>0-27</td></tr> <tr><td></td><td>264</td><td>0-16</td></tr> <tr><td></td><td>265</td><td>0-37</td></tr> <tr><td></td><td>267</td><td>01-45</td></tr> <tr><td></td><td>247 & 266 (Miljumble)</td><td>01-86</td></tr> <tr><td></td><td>252</td><td>0-77</td></tr> <tr><td></td><td>260</td><td>0-23</td></tr> </tbody> </table> <p align="center">Mauza-Parshu Rampur, PS+Anchal-Kaler, Dist-Arwal. Learned advocate of appellant submitted that</p>	Khata	Plot No	Area	Boundary	130	245	0-89			246	0-63		248	0-21		253	0-45		254	0-91		255	0-06		256	0-30		257	0-11		258	0-73		259	0-20		262	0-30		263	0-27		264	0-16		265	0-37		267	01-45		247 & 266 (Miljumble)	01-86		252	0-77		260	0-23	
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appellant of this case is Civilized Citizen and resides at Deokunj Pardih Chowk Mango Jamshedpur, Dist-East Singhbhum (Jharkhand) with his family and time to time, comes to his paternal village-Parshu Rampur at Anchal-Kaler of Dist-Arwal. Learned advocate has given detail Geneological Table (GT) of the joint family of appellant and said that their ancestor and khatiyani Raiyat was Late Lal jee Lal who had Eight sons and out of which, Six were issueless and they were namely Late Kauleshwar Dayal, Late Bhuneshwar Dayal, Late Prabhu Dayal, Late Guru Dayal alias Ram Jeevan Lal, Late Paras Nath Dayal & Late Bhawani Prasad Dayal. However, another son was Late Parmeshwar Dayal who had two sons namely Late Ambika Prasad (issueless) & Late Gopal Sharan (issueless). However, remaining 08th son was Late Jageshwar Dayal who had two sons namely Late Chandra Mohan Verma (issueless) & Late Sidheshwar Nath Verma. Learned advocate has shown in plaint that Late Sidheshwar Verma had six sons namely Late Sree Krishna Verma, Late Harikrishna Verma, Late Ram Krishna Verma, Kailash Kumar Verma, Late Gopi Krishna Verma & Umesh Prasad Verma. However, Appellant Ajeet Kumar Verma is son of Late Sree Krishna Verma who has other three brothers namely Sajeet Kumar Verma, Navin Verma & Praveen Kumar. Learned advocate further stated that khatiyani raiyat doesn't have any daughter and defendents namely Vishwa Nath Lal S/o Late Sukh Nandan Lal (op-01) & Birendra Kumar Sinha S/O Late Rajendra Lal (op-02) Village-Sohsa, PS-Mehandiya, Anchal-Kaler, Dist-Arwal doesn't have any blood relation with appellant. He emphatically said that appellant's ancestor had never in any way

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transferred the land to defendants or to their ancestors. Further, order of Sarpanch of Gram Kutchhary Teri of Dist-Arwal is in favour of appellant. He also informed that in part of disputed land "Thakur Bari & Kul Devi" has been constructed by appellant's ancestor and they have been worshipping in this temple. However, when this appellant tried to visit "Thakur Bari" on 17th Feb 2018 then defendant's along with their few accomplices threatened appellant not visit his land as it has been mutated in favour of defendants. Learned advocate said that appellant gave information of this incident to SDM Court of Arwal on 19 Feb 2018 and accordingly PB No-196 dated 19.02.2018 was issued to SP Arwal, SHO Kaler & Mehandiya & C.O. Kaler. However, in this context circle officer kaler reported through letter No-303 dated 14 May 2018 to SDM Arwal and as per this report, disputed land is mentioned in name of Shiv Rani Devi W/O Sukh Nandan Lal Village-Sohsa comprising an area of 7.32 Acre in khata 130 & 132 at Jamabandi panji No-75/03. This Jamabandi No- has been migrated from Demand No-46/02 year 1984-1985 OD No-60 but mutation case No is not mentioned in Register. Circle Officer, further writes that how "Jamabandi raiyat" has received the land whether through "Bakasht Malik, Gair Mazurwa Malik" etc are not mentioned nor defendant's has produced any document related to disputed land. Learned advocate said that appellant came to know about above mentioned facts on 25 th June 2018 & obtained certified copy on 30th June 2018 and accordingly has filed the case with condonation petition of time limitation. Learned advocate said that

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mutation done in favour of Shiv Rani Devi is against natural justice of law and it is illegal as well as against the principle of mutation. Learned advocate of appellant has submitted written argument and says that appellant is progeny of khaitiyani raiyat late Lal Jee Lal and he had no daughter. Further, Late Lal Jee Lal had eight sons and out of it, his one of son namely Late Guru Dayal alias Ram Jeevan Lal had a kept of another caste and out of this, off spring was Bodhan Kahar. This Bodhan Kahar & his off spring has sold land to different persons and in kewala name of Late Guru Dayal alias Ram Jeevan is also shown and this Ram Jeevan is son of Late Lal Jee Lal, the khatiani raiyat. So as per appellant, claim of op that Late Lal Jee had no male off spring is false. Learned advocate has informed that Vishwa Nath Lal (op-01) had also purchased land from Ram Prasad Ram S/O Bodhan Kahar in name of his wife namely Chandravati Devi in khata No-130, plot No-266 rakwa- $12\frac{1}{2}$ decimals through kewala dated 05.07.1968 and in this kewala, Vishwa Nath Lal is himself a witness. Further, prior to this kewala, permission for selling this raiyati land was taken vide permission case No-116/1968-1969 dated 22.06.1968 from circle officer Arwal as then kaler circle was part of circle Arwal. So learned advocate is of view that Vishwa Nath Lal himself accepts that Late Lal Jee Lal's son was Late Guru Dayal alias Ram Jeevan Lal and his son was Bodhan Kahar, the father of Ram Prasad Ram. So learned advocate says that op-01 himself proves that these op's didn't have any relation with family of appellant and his claim that Shiv Rani Devi is only daughter of Late Lal Jee Lal is false. Learned advocate quotes the affidavit given by different persons and

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says that they are share cropper of appellant. He also mentions Geneological Table (GT) of appellant which is of year 1955. He said that appellant is of Parshu Rampur village & demand holder is of village Sohsa and they have no relation with them. Learned advocate has pointed out about the kewala of 1925 submitted by op. Here, in this kewala Nam Mokir is Lal Jee Lal S/O Lal Chand Lal & Nam Mokir Alaih is Shali Gram Jee Maharaj. He claimed that shali Gram Jee Maharaj doesn't come in family tree of op. Further, this document is "Arpan Nama". He alleged that this kewala is forged one as Lal Jee Lal had expired in year 1919, so he can not registered the said land in year 1925. Learned advocate has also drawn attention towards a report send by SHO Kaler in case No-79/18 Ajeet Kumar Verma Vrs Vishwa Nath Prasad & others in Non FIR case No-06/18 dated 28.06.2018 where police considers disputed land to be of appellant. Further, report of circle officer kaler is also in favour of appellant and as per report of karamachari & CI land consisting of Jamabandi No-75/03 of khata No-130 is "Parti" (Barren Land). So he pleaded for cancellation of mutation done in favour Shiv Rani Devi late M/O Vishwa Nath Lal (op-01).

Learned advocate of opposite parties has submitted that mutation order of Circle Officer Kaler is not available on record, so the basis of mutation appeal is not maintainable in this court. However, after reply of circle officer kaler vide letter No-53 dated 22 Jan 2019, in relation to LCR and Geneological Table of the applicant. Learned advocate of opposite parties has submitted written argument and as per this documents, op considers this case to be barred by

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time limitation. Further, this appeal case has been filed on basis of information sought under RTI & on enquiry report of SDM, Arwal, So the ground of appeal is illegal and against the mutation Act. Learned advocate is also of view that appellant has wrongly filed case on basis of certified copy of khatian obtained from record Room and this khatian is in name of father & grand father of opposite parties. He alleged that applicant has forged the documents and wants to dispossess opposite parties in lieu of money power. He informs that khata-130 & 132 rakwa-07 Acre 32 desimals has Jamabandi No-75/03 in name of Shiv Rani Devi W/O Sukh Nandan Lal Mauza-Parshu Rampur, PS-Kaler, Dist-Arwal (Gaya) and it is entered in year 1984-1985 and it has been reported by circle officer kaler in his enquiry report. He also informed that in year 1984-1985, there were provision of entering OD Number in mutation, not the case No. Learned advocate is of view that disputed khata-130 is a "Bakasht-Malik" comprising an area of 10 Acre 64 desimals and in this khata, 19 khesras are mentioned where as khata-131 is "Gair Mazurwa" Malik and as per survey khatian, its owner is "Laljee Lal". Learned advocate is of view that appellant's ancestor including his parents never opposed the mutation in name of Shiv Rani Devi, the mother of op. He said, appellant's family never filed any case related to title in disputed land. So on this basis learned advocate claims that Ajeet Verma is not a progenee related to op's family. Learned advocate has also alleged that order passed by sarpanch of Gram Kutchhary Teri of District Arwal in favour of appellant is illegal as court of Sarpanch has 'Jurisdiction related to valuation of land up to Rs-Ten

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Thousand only. Learned advocate has also quoted kewala No-4111 dated 24.10.1925 and says that as per this kewala, vendor Lal jee Lal doesn't have any male issue and his only daughter is married to "Man-Mokir" Sukh-Nandan Lal S/O Late Ram Gulam Lal. Learned advocate has drawn attention towards a khatiyani, Submitted by appellant which is related to khata-304, plot-464 which is "Gair Mazurwa Aam" and is land of "Devi-Sthan" comprising an area of 23 desimals. Learned advocate has put question mark on the Geneological Table (GT) submitted by appellant where Late Guru Dayal has been shown to be issueless in plaint but has a son namely Budhan Kahar. He said that it is contradiction between enquiry report submitted to office of SDM by CO Kaler, the basis document of this case and GT mentioned in plaint. Learned advocate has narrated the story related to field verification by circle officer kaler and has alleged that co kaler has submitted the report in collusion with appellant as this report is contradictory to statements given by co-villagers. Learned advocate also informed that land of khata-130 & 132 comprising an area of 07 Acre 32 desimals, Jamabandi No-75/03 exists and op's has paid rent to govt from 1960-1961 to 2018-2019 and it is reported by co's letter No-472 dated 27.07.2018 to SDM Arwal. Learned advocate has given GT of his family and claimed that appellant is not a native of this village- Parshu Rampur and claimed that appellant is resident of Deokuj ParDih Chowk Mango, Jamshedpur, Dist-East Singh Bhum (Jharkhand). Finally learned advocate pleaded for dismissal of the case.

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

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submitted photo copy of certified khatiyān, GT and order of court of Sarpanch Gram Kutchhary Ajeet Kumar Verma vrs Vishwa Nath Prasad & others, photo copy of application case No-35/2018 filed by applicant in court of SDM U/S-39 of crpc and list of documents comprising 54 pages which includes police report & recommended action U/S 144 crpc, kewalas, an application from op to court of SDM for allowing them to cultivate paddy in disputed land and an affidavit certified by Notary Arwal, showing that six persons namely Munilal Singh, Rajendra Yadav, Sunesar Singh, Dhodha Yadav, Rama Kahar & Sikandar Yadav has given undertaking that they are cultivating land as per agreement with appellants & his ancestor in lieu of money as sharecropper on disputed land and accordingly report of CO kaler sent to SDM court vide letter No-303 dated 14th may 2018 and op has submitted co kaler's letter No-303 dated 14.05.2018 along with other enquiry reports, revenue receipts, kewala No-4111, Rules related to mutation Act, letter No-64 dated 25.01.2019 of co kaler and in addition to these documents, enquiry report of circle officer kaler vide letter No-53 dated 22 Jan 2019 & letter No-64 dated 25 Jan 2019. So after going through the documents submitted by both the parties and observation of sarpanch of gram kutch-hary Teri, it seems that op's ancestors may have occupied the disputed land and on that basis has got the disputed land mutated in their favour though valid documents were required for mutating it. Further, circle officer kaler has validated the Geneological Table given by appellant vide his letter No-53 dated 22 Jan 2019 & its corrigendum vide letter No-64 dated 25.01.2019.


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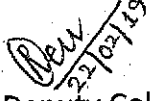
Further, there are statement of witnesses of co-villagers attached to letter of circle officer which was taken during field enquiry. Here, in one of application cum memorandum to circle officer signed by more than two dozen co-villagers, it is stated that Late Bodhan Kahar alias Bodhan Ram is son of Late Gurudayal alias Ram Jeevan Lal but he is offspring of illegitimate wife and it stated by co-villagers that Late Gurudayal had a kept and Bodhan Ram was born out of this illegitimate relationship and accordingly it seems he was given share in joint family property which was sold by Budhan Kahar to different persons. Here, it is remarkable that Budhan's son namely Ram Prasad Ram is vendor of Chandravati Devi W/O Vishwanath Lal (op-01) as mentioned in kewala dated 05.07.1968 which also shows that, land of this kewala was sold by taking permission of then C.O. Arwal in sale purchase case No-116 dated 22.06.1968. Here, it can be said that disputed land has become bone contention between both the parties due to lacunae in GT as appellant are from different caste than the Bodhan Ram. So it seems that report related to GT given by appellant has been correctly approved by circle officer kaler after verification at spot. So defendants claim that late Shiv Rani Devi is only daughter and late Lal Jee Lal had no male issue, seems to be false. Further, C.O. Kaler reports vide letter No-303 dated 14th may 2018 that Jamabandi No-75/03 exists in name of Shiv Rani Devi W/O Sukh Nandan Lal Village-Sohsa, PS-Mehamediya, Dist-Arwal comprising an area of 07.32 Acre in khata-130 & 132 but op has not been able to prove how Shiv Rani Devi's name came in panji as successor of original raiyat. So

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defendant's claim that original raiyat had no male offspring seems to be false and creation of demand in name of Shiv Rani Devi seems to be without valid document. Further, op writes in para No-07 of written argument that in year 1984-1985, mutation case No was not used to be mentioned, this statement seems to be contrary to mutation manual existing at that time. So overall as per report of circle officer received on different occasions, it seems that scheduled land mutated in favour of defendant doesn't have valid ground till competent court decides title in favour of defendant. Thus, this court directs to cancel mutation in name of late Shiv Rani Devi in relation to scheduled land. Here, it is also remarkable that even after demise of Shiv Rani Devi, the op's who claims to be her legal heir has not got their name mutated in her place till this day. So circle officer is being directed to mutate the scheduled land in favour of offspring of raiyat as claimed by appellant, after following due procedure of law under mutation Act.

Dictated and corrected


Land Reforms Deputy Collector
Arwal


Land Reforms Deputy Collector
Arwal.