

Court No. - 48

Case :- WRIT - B No. - 2081 of 1981

Petitioner :- Ram Jag Mishra

Respondent :- D.D.C.

Counsel for Petitioner :- U.N.Singh,A.N.Singh,Deelip Kumar Pathak,Om Shankar Mishra,Sanjeev Kumar Pandey

Counsel for Respondent :- S.C.,Babu Lal Ram,M.B. Mishra,R.N.Upadhaya,Rajesh Kumar

Hon'ble Saurabh Shyam Shamshery,J.

1. Heard Sri Pradeep Kumar Rai, learned counsel for the petitioners and Sri Naveen Kumar, Advocate holding brief of Sri Babu Lal Ram for respondent no.8.

2. This writ petition is pending since 1981. However, dispute is very limited i.e. details of land sold to petitioner by her vender despite sale deed was held valid by consolidation authorities, but not correctly recorded by Deputy Director of Consolidation in table accompanied.

3. Learned counsel for petitioners has referred following findings returned by Revisional Authority.

"Rajwanti executed sale deeds to the extent of 6-14-10 excluding the area sold by her from the plots, which were acquired through patta, she has thus sold in excess of her share in the holding, and vendees, who purchased last from her, will have to suffer because they purchased from her at a time when she had no share left in the holding. Thus Smt. Rajwanti has sold 1-18-4 in the excess. The last sale deed executed by her is dated 30-9-65 in favour of Gauri Shanker etc. who will not get any share in the property on the basis of this sale deed. Further the sale deed executed on 30-9-64 in favour of Sheo Shanker can also not be given effect to in full for the same reasons and only an area of 1-6-2 shall be considered to have been transferred to Sheo Shanker through the sale deed executed by Smt.Rajawnti in his favour on 30-9-64, as at the time of the execution of the sale deed she was left with only that much area in this holding. Ram Lakhani has in his revision No. 1195 claimed plot No.2240 on the grounds that it is a grove on the spot for more than 20 years and that he uses it as Khaliyan and keeps his Marhi, Charni and sugarcane crushes in it, and that the

recorded proprietor was not entitled to sell it. I however, find he did not furnish any evidence in support of his contention. His claim can not therefore, be accepted.

Revision Nos.1180, 1182, 1183, 1184 and 1186 filed by Ramjag are dismissed. Revisions nos.1195 by Bikrama is also dismissed. The other revisions are allowed and the basis year record shall be corrected in accordance with the details mentioned in the annexure, which shall form part of this order. This order shall govern all the 12 revisions (number given in the beginning). The orders passed by the lower courts shall stand modified accordingly."

4. Learned counsel for the petitioners has also referred table annexed along with the order impugned and impressed that total area allotted to petitioner was less than area mentioned in the Bainama executed in favour of petitioner. He further referred details mentioned in the respective gatas which were part of the sale deed which comes to 1-7-17 whereas in the table, total area comes to only 1-4-17, therefore, total area was decreased, which appears to be an error of calculation.

5. Learned counsel for the petitioners further submits that a restoration application was filed in order to show the error in table. However, the Deputy Director of Consolidation has erroneously considered it to be a review application and accordingly dismissed it.

6. Learned counsel for respondent no.8 submits that he is not aggrieved by outcome of the order passed by Revisional Authority.

7. As referred above, it appears that there are some error in the table in recording details of all Gatas and respective area being part of sale deed executed in favour of the petitioner which has caused prejudice to the petitioners since their names have been entered in the revenue records for lesser part, which is apparently a legal wrong.

8. This aspect could have been considered by the Revisional Authority. However an error has been committed by treating the restoration application to be a review application and it ought to have been considered to be an application for modification/correction.

9. I am satisfied that aforesaid circumstances are sufficient so that

this matter be disposed of and impugned order passed in the restoration application dated 2.11.1980 is liable to be set-aside and the matter be remanded to the Deputy Director of Consolidation to treat it an application for modification and cure the error which is apparent on record after verifying from record and after giving an opportunity of hearing to petitioners, if there is no legal impediment.

10. Presently, Revisional Authority has wide powers, therefore, same could be exercised to correct the error.

11. In view of the above, impugned order passed in the restoration application dated 2.11.1980 is set-aside and matter is remitted to Deputy Director of Consolidation for fresh consideration and if necessary amend the table in accordance with law expeditiously, preferably within a period of three months from today.

12. With the aforesaid directions and observations, this writ petition is disposed of.

Order Date :- 12.10.2023

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