
Daduram And Ors Vs Shivratn

Writ Petition (C) No. 1048 Of 2015

Court: Chhattisgarh High Court

Date of Decision: Sept. 2, 2019

Citation: (2019) 09 CHH CK 0011

Hon'ble Judges: Goutam Bhaduri, J

Bench: Single Bench

Advocate: Ashok Kumar, Meena Shastri

Final Decision: Disposed Of

Judgement

Goutam Bhaduri, J

1. Heard.

2. Challenge in this petition is to the order dated 14 th of May, 2015 passed by the Board of Revenue.

3. It is contended by the petitioners that on the basis of a family settlement/ikrarnama (Annexure P-1) late Daduram, through whom the petitioners are

claiming, certain family arrangements were made and thereafter on the basis of the family arrangements, the petitioners were placed in possession of

the subject land, which is also corroborated from the resolution of the Gram Panchayat. The land was bearing Khasra No.450/1Cha, area 4.40 acres,

Khasra No.455/1b area 0.98 acres, Khasra No.455/1cha area 0.55 acres, Khasra No.500/2 area 0.38 acres, Khasra No.500/5 area 0.55 acres total

6.86 acres at village Latkhonikhurd. It is stated that on the basis of such settlement, the name of Daduram was mutated in respect of the land in

question. After the land was mutated in the name of Daduram, the respondent Shivratn filed an application before the Tehsildar, wherein the

Tehsildar dismissed the objection of respondent and ordered to file an appeal. Subsequently, the appeal was filed before the SDO and the SDO by an

order dated 21.11.2005 dismissed the appeal filed by the respondent Shivratn being barred by time. Against such order of SDO, the second appeal

was filed before the Commissioner, Bilaspur Division, Bilaspur, wherein the Commissioner by order dated 11.12.2008 affirmed the order of the SDO.

The said order was challenged before the Revenue Board, Chhattisgarh and the Revenue Board by order dated 14th of May, 2015 passed an order

and considered the merits of the case, the same is made challenge.

4. Learned counsel for the petitioners would submit that the case is out and out in respect of the mutation of the name of the petitioners in respect of

the revenue record, therefore, the Revenue Board has wrongly exercised its jurisdiction has entered into merits of this case, therefore, the order is

erroneous. He would further submit that as on date the petitioners are in possession of the subject land.

5. Learned counsel for the respondent submits that by way of the agreement to which the petitioner through Daduram got their name mutated in

respect of land do not confer any title on them. She would further submit that the subject land was purchased in name of the respondent and is a self

acquired property. It is stated that unless & until the property is transferred as per the law or registered deed, the agreement would not convey any

title so the mutation would also be bad.

6. I have heard learned counsel for the parties.

7. Perused the order of the Revenue Board as also the orders passed by the SDO and the Commissioner. The pith and substance of the matter is with

respect to the mutation of the name in the revenue records. The petitioners, who are claiming through Daduram, claim that Annexure P-1 has

conferred them with the proprietary right as it was by way of family settlement. Whereas the respondent contends that the property is in name of the

respondent as is a self acquired property, therefore, cannot be subject matter of family settlement. The nucleus of the dispute, therefore, is to be

decided by virtue of the right which is bestowed on the respective parties on the basis of two different documents, one is sale deed in favour of the

respondent and other is a deed of agreement in favour of the petitioners. It is a settled proposition of law that mutation of the name in the revenue

records do not confer any party with the right and it is only for the revenue purpose. If the right of the parties can only be decided by civil Court and in

such case the decree of civil Court shall prevail upon mutation proceeding.

8. The Supreme Court in the case of Municipal Corporation, Gwalior Vs. Puran Singh alias Puran Chand and others {AIR 2014 SC 2665} has laid

down that the Khasra entries do not confer any title. Para 30 of the said judgment is reproduced hereinbelow:-

30. The High Court committed a grave and manifest error of law in reversing the well reasoned judgment and decree passed by the Trial Court by

simply placing reliance upon Khasaras entries even without properly appreciating the settled law that Khasara entries do not convey title of the suit

property as the same is only relevant for the purposes of paying land revenue and it has nothing to do with ownership.

9. Therefore, under the circumstances, this Court will not enter into the arena of ownership & title. Since the petitioners have been said to be in

possession of the land, therefore, it is a trite law that they cannot be dispossessed otherwise than in due course of law. In such circumstances, it

appears that the parties has to be pass through another bout of litigation. The respondent, if so claims, that he is the owner and claims possession, it is

for the respondent to approach the forum which is available to him. The finding given in the order of Board of Revenue shall not be binding in between

the parties if the parties resort to civil suit for the redressal of grievance.

10. With the aforesaid observation, the writ petition stands disposed of.