

**In The Court of Commissioner, Saran Division, Chapra**

**Land Settlement Revision No. 105/2011**

**Malti Devi & Ors.**

**Vrs.**

**Badri Yadav & Ors.**

**ORDER**

09.01.2016 — The instant revision application is directed against the impugned order passed by Addl. Collector, Siwan on 25.03.2011 in settlement Appeal No. 9/2005-06.

The brief facts of the case are that the disputed piece of land measuring 37 ½ decimal of R.s. Plot No. 575, Khata No. 1884 situated in Mouza Sararika Tola Ladhi of Greyakothi circle, Dist- Siwan is the subject matter of this revision case. Further case is that a settlement proceeding vide case No. 33/2004-05 for the aforementioned land was initiated by C.O. Goreyakothi on an application of one Rajpati Devi W/o Badri Yadav R/o Village- Sarari Tola Ladhi, circle – Goreyakothi, Dist- Siwan and subsequently after obtaining report from Revenue Karmachari and circle inspector, C.O. Goreyakothi recommended for the settlement of the above land in favour of the applicant Rajpati Devi and accordingly record was sent to SDO, Mahrajganj through DCLR, Mahrajganj for settlement. Thereafter, the SDO, Mahrajganj on finding that the said recommendation was made after consideration of all requirement of settlement and the said land was also in the possession of the applicant, he finally vide order dated 31.05.2005 ordered for the settlement of the said land and also directed the C.O. Goreyakothi to take further action in the matter and returned the record. Then Malti Devi W/o Alha Yadav and two others of the same village filed an appeal before Addl. Collector Siwan vide settlement Appeal No. 09/2005-06 wherein the said settlement in favour of Rajpati Devi was challenged. But during the pendency of the appeal case the original settlee Rajpati Devi died leaving behind four sons and one daughter as legal representative whose names were substituted in the case. Thereafter, the learned Addl. Collector after hearing the parties finally held that the total area of Survey Plot No. 575 of Khata No. 1884 is 2 acre 53 decimal of Gair Mazarua Malik land and both parties claim their respective possession over that; as such the considering the order passed by SDO, Mahrajganj, having no infirmity he rejected the said appeal case.

On being aggrieved by and dissatisfied with the aforementioned order dated 21.05.2005 of Addl. Collector, Siwan the present petitioners have preferred this revision case.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the petitioners while assailing the impugned order, submitted that the report of Karmachari and C.I. had stated possession of the petitioners and regarding existence of house of the petitioner over the disputed land but in spite of that settlement was made in favour of the respondents. He further submitted that the learned Addl. Collector without considering the long and continuous possession of the petitioners has wrongly decided the appeal against the appellants. He also submitted that neither SDO nor Addl. Collector ever visited the spot nor they took attempt to verify the truth regarding residential house of the petitioners over the disputed land. He also argued that in fact, the learned lower court should have held that the settlement in the name of O.Ps. mother is illegal, invalid, in-operative, void and the same was decided without conducting any inquiry

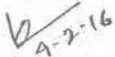
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and also without giving notices to the petitioners. The learned counsel further argued that the learned lower court has failed to appreciate the fact that the right, title, interest and possession will be prejudiced due to the impugned order. He also submitted that the learned lower court has failed to appreciate the fact that the petitioners and respondents are heirs of common ancestor Chaudhur Raut to whom ex-land lord had orally settled, 1 Bigha land out of total area of disputed plot No. 575 and Chaudhur Raut and his heirs have been coming in possession and the family of the petitioners have acquired right, title and possession even by virtue of adverse possession. He lastly submitted that this revision case is fit to be allowed.

The learned counsel appearing on behalf of the respondents, vehemently opposed the arguments advanced by the learned counsel for the petitioners, and submitted that the claim of the petitioners are wrong. He submitted that actually the house of the petitioners stands in between the settled pieces of land in favour of O.Ps. mother Rajpati-Devi so the petitioners do not have any concern with the settled land with O.Ps. and they do not have any locus standi to file this revision case. The learned counsel further submitted in support of his contention that sketch map submitted by Anchal Amin clearly shows that there is vacant space in between the two pieces of land of the O.Ps. and it does not touch with the petitioner's land. He also submitted that the settlee Rajpati Devi was a landless lady and she was entitled to have settlement in her name whereas the petitioners are not landless persons rather they have more than 7 acre of land and the petitioners not qualify to be considered for settlement. The learned counsel lastly said that the order of two successive courts below are just, legal and proper, and as such no interference is required at revisional stage.

Considering the facts and circumstances of the case, material available on records, respective arguments made by the learned counsel for the contesting parties and on perusal of the impugned order, it is quite obvious that the settlement for the above mentioned land in favour of one Rajpati Devi has been done on the recommendation of concerned C.O. and subsequently the said settlement was also upheld by the Addl. Collector, Siwan. The only contention of the petitioners is that if the said settlement is not unsettled, her right, title would be adversely affected. I do not find any truth in such claim as the learned Addl. Collector has held that the total area of the said plot No. 575 is 2 acre 53 decimal of Gair Mazarua Malik land and both parties claim their respective possession. However, from the sketch maps available on record clearly shows some vacant space in between the disputed land and the land in possession of the petitioners. In fact, the learned Addl. Collector, Siwan has rightly upheld the said settlement in favour of the Rajpati Devi. Moreover, learned counsel for the petitioners failed to raise any substantial ground calling for any interference at this stage in the impugned order. As such the impugned order is upheld and this revision application being devoid of any merit is dismissed.

Dictated and Corrected by me.

  
Commissioner,  
Saran Division, Chapra

  
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