



IN THE COURT OF REVENUE ASSISTANT / SDM (SAKET)  
REVENUE DEPARTMENT : GOVERNMENT OF NCT OF DELHI  
OLD TRAFFIC COURT COMPLEX : M B ROAD : SAKET : NEW DELHI

No-3386

Dated-28/10/14

Case No. 060/RA/SAKET/2014  
SMT. DEEPA BHURE VS SMT. BIMLA DEVI

ORDER

An application for mutation was filed before the Tehsildar (Saket) on 23.05.2014 by Smt. Deepa Bhure W/o Late Shri Jagvir Singh R/o House No. 275, Village – Devli, New Delhi subsequent to the death of her husband on 31.03.2014 claiming therein that after the death of her husband, She alongwith her two sons namely Master Aryan Bhure & Master Kartik Bhure (both minors) are the only eligible legal heirs in respect of his holdings in Village Devli. Accordingly, the proceedings were initiated under the relevant rules and notices were issued to the concerned. The said request/application was contended by Smt. Bimla Devi mother of the deceased Late Shri Jagvir Singh vide application dated 19.08.2014 claiming her share in the holdings of the deceased. Since the mutation process was disputed, the matter was referred to this court for further adjudication.

Accordingly, notices were issued to the concerned parties. Both the parties appeared before this court on different dates and adopted their written requests as their arguments and prayed that the matter may be decided as per law. No legal arguments in support of their claims were presented by both the parties. Accordingly, the matter was reserved for order's on 20.10.2014.



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The issue relates to the holdings of Shri Jagvir Singh S/o Late Shri Rattan Singh comprising Khasra Nos. 21/11/1 (03-08), 21/20/1 (02-16), 22/6/2 (00-14), 22/15/2 (02-04), 70/14 (02-16), 70/15/1 (00-13), 70/17 (02-15), 192-213-268 (00-05), 599min (01-09) situated in the revenue estate of Village Devli, New Delhi. The share of Late Shri Jagvir Singh in the said holdings was (1/2) half subsequent to the mutations carried out in the year 2003 & 2005. The said holdings are governed by the Delhi Land Reforms Act, 1954 which recognizes bhumidhari rights.

Although no legal arguments were presented, but this court is under the legal obligation of considering the claims under the relevant legal principles. Thus, two issues were framed to be answered through present order, to finally settle the matter between the rival parties :-

- 1). Whether the mutation in the present case is to be solely governed by the Delhi Land Reforms Act, 1954 or the Hindu Succession Amendment Act, 2005 ?
- 2). Whether the Respondent is entitled to any relief ?

I, have gone through the material available on file and the issues framed hereinabove are discussed & decided as under :-

- 1). Whether the mutation in the present case is to be solely governed by the Delhi Land Reforms Act, 1954 or the Hindu Succession Amendment Act, 2005 ?

The bhumidari rights are special rights created on the abolition of ownership of agricultural land and are controlled and regulated by the provisions of the Delhi Land Reforms Act, 1954. The Hon'ble Supreme Court in *Hati v. Sunder Singh* (1970) 2 SCC 841 analysed various provisions of DLR Act and concluded that "there is no warrant to travel outside the Act and the Rules for further restrictions in the right or manner of transfer



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of the bhumidhari rights". It was concluded that "the right of transfer of interest by a bhumidhar of his bhumidhari rights in the agricultural land is controlled only by the provisions of the DLR Act". The provisions of customary law do not apply to transfer of bhumidhari rights. Section 50 of the Delhi Land Reforms Act, 1954 sets out the general order of succession from males. It reads as under:

*"Subject to the provisions of section 48 and 52, when a bhumidhar or asami being a male dies, his interest in his holding shall devolve in accordance with the order of the succession given below:*

*(a) male lineal descendants in the male line of the descent:*

*Provided that no member of this class shall inherit if any male descendant between him and the deceased is alive: Provided further that the son or sons of a predeceased son howsoever low shall inherit the share which would have devolved upon the deceased if he had been then alive;*

*(b) widow;*

*(c) father;*

*(d) mother, being a widow;*

*(e) step mother, being a widow;*

*(f) father's father;*

*(g) father's mother, being a widow;*

*(h) widow of a male lineal descendant in the male line of descent;*

*(i) unmarried daughter;*

*(j) brother being the son of same father as the deceased;*

*(k) unmarried sister;*

*(l) brother's son, the brother having been son of the same father as the deceased;*

*(m) father's father's son;*

*(n) brother's son's, son;*

*(o) father's father's son's son;*

*(p) daughter's son."*

In Ram Mehar Vs Mater Dakhan ILR (1972) 2 Delhi 922, the Division Bench of the Hon'ble High Court of Delhi held that the DLR Act was saved by Section 4(2) of Hindu



Succession Act, 1956 (as unamended) and that the rule of succession in governing bhumidhari is found in Section 50 DLR Act and not Hindu Succession Act. The legal position changed when Section 4(2) of the Hindu Succession Act, which excluded the applicability of the Hindu Succession Act to agricultural land, stood repealed by Hindu Succession (Amendment) Act, 2005 which came into force on 9th September 2005.

In Mukesh (Smt.) vs. Bharat Singh [149 (2008) DLT 114], it was clarified that the effect of Hindu Succession Amendment Act, 2005 could not be retrospective and the succession which had taken place prior to the promulgation of Hindu Succession Amendment Act, 2005 cannot be disturbed.

In *Nirmala v. Govt. of NCT of Delhi* 170 (2010) DLT 577, Section 50 of Delhi Land Reforms Act, 1954 was challenged as being violative of Articles 14, 16 and 19 of the Constitution of India and also as having been impliedly repealed by the Hindu Succession Amendment Act, 2005. It was held that with the repeal of Section 4(2) of Hindu Succession Act, 1956 by the Hindu Succession Amendment Act of 2005, the specific exclusion of DLR Act from the overriding effect of Hindu Succession Act stood removed. The result was that the Delhi Land Reforms Act, 1954 was relegated to a position of subservience to Hindu Succession Act to the extent of inconsistency in the provisions of the two statutes.

Thus, the issue framed is settled in view of the above discussions that the mutation/ Succession in the present case shall be governed by the Hindu Succession Amendment Act, 2005 as Late Shri Jagbir Singh had died on 31.03.2014 i.e. post enactment of the said Act.



2). Whether the Respondent is entitled to any relief ?

Since, it has been decided that the succession in the present case is to be governed by the provisions of the Hindu Succession Amendment Act, 2005 which have overriding effect over the provisions contained in the Delhi Land Reforms Act, 1954, it would be imperative to discuss the relevant provisions of the Hindu Succession Amendment Act, 2005 to settle this issue :-

Section 8. General Rules of Succession in the case of males – The property of male Hindu dying intestate shall devolve according to the provisions of this chapter –

- a) Firstly, upon the heirs, being the relatives specified in Class I of the Schedule ;
- b) Secondly, if there is no heir of class I, then upon the heirs, being the relatives specified in Class II of the Schedule ;
- c) Thirdly, if there is no heir of any of the two classes, then upon the agnates of the deceased ; and
- d) Lastly, if there is no agnate, then upon the cognates of the deceased.

Section 9. Order of succession among heirs in the Schedule – Among the heirs specified in the Schedule, those in class I shall take simultaneously and to the exclusion of all other heirs ; those in the first entry in class II shall be preferred to those in the second entry ; those in the second entry shall be preferred to those in the third entry ; and so on in succession.

The above two provisions of the Hindu Succession Amendment Act, 2005 clearly specify that the property of the deceased is to be first devolved equally on the heirs specified in the Class I of the Schedule. Thus the respondent who is the mother (widow) of the deceased entitles to an equal share in the property, as she secures a relationship mentioned in the Class I of the Schedule including the Petitioners.



In light of the above discussions, the legal position that emerges as far as the present case is concerned is that :-

(i) Shri Jagvir S/o Late Shri Rattan Singh was the recorded owner of ½ share, for the land comprising Khasra Nos. 21/11/1 (03-08), 21/20/1 (02-16), 22/6/2 (00-14), 22/15/2 (02-04), 70/14 (02-16), 70/15/1 (00-13), 70/17 (02-15), 192-213-268 (00-05), 599min (01-09) situated in the revenue estate of Village Devli, New Delhi. The ownership/bhumidari of the deceased Shri Jagvir already stands identified and recognized with the said share being entered in the revenue records and with his being declared as a Bhumidar. There is no challenge to the holdings of the deceased, Shri Jagvir.

(ii) Shri Jagvir Singh died on 31.03.2014 i.e. post enactment of Hindu Succession Amendment Act, 2005. Since the Hindu Succession Amendment Act, 2005 is prospective in nature, the present case would be governed by the decision in Nirmala v. Govt. of NCT of Delhi (supra).

(iii) Subsequent to the death of Late Shri Jagvir Singh, considering the provisions of the Hindu Succession Amendment Act, 2005 read with Delhi Land Reforms Act, 1954, the following legal heirs shall succeed him in respect of his holdings, being the legal heirs of Class I of Schedule to Hindu Succession Amendment Act, 2005 :-

Smt. Deepa Bhure	Widow
Master Aryan Bhure	Son (Minor)
Master Kartik Bhure	Son (Minor)
Smt. Bala Devi	Mother (Widow)



Considering the legal position discussed above and the factual status of the case, the claim of the defendant Smt. Bala Devi W/o Late Shri Rattan Singh i.e. widow-mother succeeds. Thus, the holdings of Late Shri Jagvir Singh S/o Late Shri Rattan Singh is hereby directed to be mutated in equal shares favouring Smt. Deepa Bhure, Master Aryan Bhure, Master Kartik Bhure & Smt. Bala Devi.

Let a copy of this order be sent to all concerned.

Give under my hand and seal of this court on this 21<sup>st</sup> October, 2014.

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(ASHISH KUMAR)

REVENUE ASSISTANT / SDM

ASHISH KUMAR  
SAKET DIVISION : DISTRICT SOUTH  
Sub-Divisional Magistrate

(Saket)

M. B. Road, Saket, New Delhi-68

To :-

1. Smt. Deepa Bhure W/o Late Shri Jagvir Singh R/o House No. 275, Village – Devli, New Delhi.
2. Smt. Bala Devi W/o Late Shri Rattan Singh R/o House No. 275, Village – Devli, New Delhi.
3. The Tehsildar (Saket), GNCTD with the direction to comply with the directions in a time bound manner.
4. The Halqua Patwari (Village-Devli).

Copy to :-

- ✓ 1. The Programmer, O/o DM (South), GNCTD with the request to upload this order on the department site.
2. Reader to District Magistrate (South), GNCTD.