

(2008) 03 JH CK 0071
In the Jharkhand High Court

Abdul Hamid and Talat Yousuf

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-03-2008

Acts Referred:

Citation : (2008) 2 JCR 477

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard the parties. The dispute in these cases relates to a portion of land, out of Plot No. 2347, Khata No. 471, situated in Village-Chitarpur, within the district of Hazaribagh (now Ramgarh).

2. According to the petitioner in W.P. (C) No. 360 of 2008, 30 Decimals of land out of Plot No. 2347 was settled in favour of his ancestor by the Ex. Landlord through Sada Hukumnama. The Ex. Landlord issued rent receipt in lieu of payment of rent and thereafter, the State also realized rent from the petitioner and granted rent receipts in lieu thereof.

3. According to the petitioner in W.P. (C) No. 504 of 2008, 5 Decimals of land out of Plot No. 2347 was settled in favour of his ancestor by the Ex. Landlord through Sada Hukumnama. The Ex. Landlord issued rent receipt in lieu of payment of rent and thereafter, the State also realized rent from the petitioner and granted rent receipts in lieu thereof.

4. It is submitted by the learned Counsel for the petitioners that they have acquired raiyati status over their respective lands and, therefore, no proceeding under the Bihar Public Land Encroachment Act can be initiated.

5. On the other hand, by filing counter-affidavits, claim of the petitioners has seriously been controverted and disputed and it is said that Plot No. 2347, pertaining to Khata No. 471, situated in Village-Chitarpur within the district of

Hazaribagh (now Ramgarh), having an area of 6.06 Acres, in Gair Mazarua land and, therefore, it is a Government land and the same is notified as Bazar. The land is entered as Sairat in Sairat Register and the same has been transferred to Bazar Samiti.

6. The question as to whether the land, in question, is Gair Mazarua Khas or Gair Mazarua Aam or Sairat land or has been transferred in favour of Bazar Samiti is a question, which requires evidence and such complicated and disputed question of right, title and interest cannot be decided in a writ jurisdiction.

In the present cases, it appears that proceedings under the Bihar Public Land Encroachment Act were initiated and thereafter, on the basis of the orders, passed therein, the structure over the land, in question, were demolished, being held to be encroachment over public land.

7. In this view of the matter I am not inclined to interfere with the said orders. Accordingly, both the writ petitions are hereby, dismissed. If so advised, the petitioners may get their right and title declared by a competent Court of civil jurisdiction.