
(2020) 01 JH CK 0307
In the Jharkhand High Court
Case No : Writ Petition (C) No. 5955 of 2011

Aghnu Manjhi

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 23-01-2020

Acts Referred:

Citation : (2020) 01 JH CK 0307

Hon'ble Judges : B.B. Mangalmurti, J

Bench : Single Bench

Advocate : Bhaiya Vishwajeet Kumar, Avishek Chandra, Jai Prakash, Rishi Pallava, Yogesh Modi

Final Decision : Dismissed

Judgement

1. Heard learned Counsel for petitioner as well as learned Additional Advocate General-I on behalf of all the respondents.
2. Instant writ application was filed for quashing the order dated 29th June, 2010 passed by the Deputy Commissioner, Ramgarh by which he has refused to recognize the petitioner as raiyat with respect to the lands pertaining to Khata No.1/52, Plot No.169 area 2.35 acres and Plot No.173 area 0.70 acres, total 3.05 acres situated at Mouza Simra, P.S. Mandu, Thana No.55, District-Ramgarh. Further prayer in the writ application was to direct concerned respondent to issue Raiyati Recognition Certificate in favour of the petitioner with respect to the aforesaid lands for receiving compensation which has been acquired by the Railway Department.
3. It is submitted on behalf of the petitioner that by virtue of Hukumnama dated 21st April, 1942, the land was coupled with grant of rent receipt by the Ramgarh-Raj, the grandfather of the petitioner namely Mahadeo Manjhi was settled with the land having total area 6.75 acres in village Simra, P.S. Mandu, District Hazaribagh now falling under the district of Ramgarh pertaining to Khata No.1/52, Plot Nos.170/268, 170/270, 169/271, 169/275, 169/273, 169/289,

173/313, 169/310 and 169/311 and came in possession thereafter. It is further submitted that after the death of the Mahadeo Manjhi his two sons came in possession of the land, since one of the sons died issueless, therefore, the land devolved upon this petitioner and his other four brothers, who came in cultivating possession. The further case is that a Rent Reduction Case No.379/A-33AE under Chotanagpur Tenancy Act was filed and the rent was reduced in the year 1939-40. Learned counsel further submitted that after vesting, Jamabandi was opened in the year 1967-68 with respect to the lands having area of 6.50 acres and the rent was regularly paid to the State with grant of rent receipts since last 40 years. It is also submitted that when the land was acquired for an area of 3.05 acres of Plot Nos.169 and 173 by the Railways the, petitioner being the Karta of the family has applied for payment of compensation. A raiyati recognition certificate was asked to submit for the purpose of payment of compensation. The petitioner accordingly applied before the Circle Officer, Mandu for issuance of raiyati recognition certificate with respect to the said lands which was duly forwarded holding the nature of land as paddy field and tand having total area of 3.05 acres. It is also submitted that the land pertains to Gair Mazurwa Khas Jungle. Learned counsel further submitted that the authorities concerned has recommended in his favour but Deputy Commissioner, Ramgarh by order dated 29th June, 2010 without applying his judicial mind refused to grant raiyati recommendation on the ground that the landlord has not submitted the return. This order is impugned herein. It is also submitted that similarly situated other villagers were granted raiyati recommendation certificate. Learned counsel for the petitioner relied on a decision reported in the case of Banwari Lal Agarwal & Ors. Versus State of Jharkhand & Ors. reported in 2008 (3) JCR 106 (Jhr) and submitted that the name was running in the revenue record. The Deputy Commissioner is obliged to issue the certificate if it is issued to other raiyats also.

4. Learned Additional Advocate General-I appearing on behalf of the respondents submitted that counter affidavit has been filed on behalf of the respondents. The stand of the State is that since the nature of land recorded in Gair Mazurwa Khas Kism Bhoomi Jungle, therefore, this type of land cannot be settled to any raiyat. Due to this reason no return was filed by the ex-landlord in respect of these lands. He further submitted that as per the submission of petitioner, the land was settled through Hukumnama in the year 1942 and rent receipts were issued but the petitioner is also placing reliance on the rent reduction case which was filed in the year 1939-40 prior to the settlement of the land by the ex-landlord as claimed by the petitioner, therefore, the facts are not matching at this score. It is submitted that from document attached by the petitioner as Annexure-6, it would appear that only recommendation for issuance of certificate was made to villagers Suraj Manjhi and others. No certificate has been brought on record by the petitioner. Learned Additional Advocate General-I further submitted that in the case of Suraj Manjhi, the land was settled by the State in a settlement case, therefore, the case of that villager is not similar to this petitioner. Learned

Additional Advocate General-I also submitted that the judgment of Banwari Lal Agarwal & Ors. Versus State of Jharkhand & Ors. relied upon by the petitioner is not applicable in this case, as no objection certificate was ordered to be issued to the raiyat and this petitioner was not held raiyat due to the nature of the land. Learned Additional Advocate General-I also submitted that disputed question of facts cannot be decided in the writ jurisdiction and the best course available to the petitioner is to choose some other forum. Lastly, he submitted that neither the Khatiyani nor the rent receipts were brought on record from side of the petitioner, merely statement has been made in the writ, which cannot be relied upon unless supported with the documents.

5. Considering the above submissions of the parties as well as on going through the judgment relied upon by learned counsel for petitioner, the prayer made before this Court cannot be decided under the writ jurisdiction. Petitioner may approach appropriate forum available to him under the law.

6. In such circumstances, instant writ application is dismissed.