

(2023) 12 JH CK 0022

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1782 Of 2015

Ajay Kumar Saw

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 07-12-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 144, 144(7)

Citation : (2023) 12 JH CK 0022

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Sameer Saurabh, Rakesh Ranjan, R.S. Mazumdar

Final Decision : Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Sameer Saurabh, learned counsel for the petitioner, Mr. Rakesh Ranjan, learned counsel for the State and Mr. R.S. Mazumdar, learned counsel for opposite party no.4.
2. Mr. R.S. Mazumdar, learned senior counsel submits that opposite party nos. 2 and 3 have left for their heavenly abode.
3. This petition has been filed for quashing of the order dated 20.08.2015 passed by the learned Sub-Divisional Officer, Koderma in connection with Case No.92 of 2013 under Section 144 of Cr.P.C., whereby, he has directed to evict the petitioner and demolish the illegal construction.
4. The grievance of the petitioner is that earlier Section 144 Cr.P.C. proceeding was initiated. The petitioner filed revision petition which was disposed of considering that the order passed by the S.D.O. has lost its force and that came into an end after 60 days.
5. Learned counsel for the petitioner submits that the order passed by the learned S.D.O., Koderma is without jurisdiction and no opportunity of hearing

was provided to the petitioner while passing the said order.

6. The said argument is being resisted by the learned senior counsel for opposite party no.4 on the ground that mutation case filed by the petitioner was rejected, thereafter, mutation appeal filed by the petitioner was also rejected and the petitioner has also filed a writ petition, which was withdrawn by the petitioner.

7. In view of the above submissions of the learned counsel for the parties, it appears that the disputed question of fact is involved in this petition and only the competent Court can examine that aspect of the matter. Further, in view of Sub-section (7) of Section 144 of Cr.P.C., the order can be passed after providing opportunity of hearing to both the sides. It appears from the impugned order that no opportunity of hearing was provided to the petitioner.

8. In view of the above facts, the impugned order dated 20.08.2015 passed by the learned Sub-Divisional Officer, Koderma in connection with Case No.92 of 2013 is set aside. The matter is remitted back to the learned Sub-Divisional Officer, Koderma to pass a fresh order after providing opportunity of hearing to both the sides.

9. Accordingly, this petition is disposed of.