

**(2020) 02 JH CK 0035**

**In the Jharkhand High Court**

**Case No :** Writ Petition (C) No. 4408 Of 2014, I.A. No. 3557 Of 2016

Ajit Kumar Srivastava

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

**Date of Decision :** 17-02-2020

**Acts Referred:**

Santhal Parganas Tenancy Act, 1949 — Section 20(5)

**Citation :** (2020) 02 JH CK 0035

**Hon'ble Judges :** Sanjay Kumar Dwivedi, J

**Bench :** Single Bench

**Advocate :** J.P. Jha, Sri Prakash Jha, Navin Kumar, Sweta Kumari

**Final Decision :** Allowed

## Judgement

Heard Mr. J.P. Jha, learned Senior counsel appearing for the petitioner and Mr. Navin Kumar, learned counsel for the respondent-State.

The petitioner has preferred this writ petition for quashing the letter no. 194(R) dated 10.03.2012 by which the Additional Deputy Collector, Deoghar

has directed not to construct building.

Mr. J.P. Jha, learned Senior counsel appearing for the petitioner submits that the impugned order is cryptic in nature. He further submits that no show-

cause notice and hearing has been provided to the petitioner before passing the order at Annexure-1, whereby, direction has been issued not to

construct building on the land purchased by the petitioner. He also submits that the petitioner is a registered society under the Society Registration Act,

which propels and imparts Vedic education all over India and abroad. He further submits that the land in question was purchased from the Mul Raiyat.

He refers to page 392 of Santhal Pargana Manual, 1911 and submits that the right of Mul Raiyati is prescribed in Column 12, whereby, it is clear that

the Mul Raiyat is entitled to transfer the land belonging to them. He further submits that there is no bar under Section 20(5) of the Santhal Paragana

Tenancy Act. He further submits that this fact has been admitted by the respondent-State at page 22 of their counter affidavit, wherein, it has been

stated that in page 392 of the Santhal Paragana Manual, Mul Raiyati is entitled to transfer their land.

Per contra, Mr. Navin Kumar, learned counsel for the respondent-State submits that the impugned order has been passed in the year 2012 and in that

view of the matter the petitioner may be directed to approach the Additional Deputy Commissioner, Deoghar to look into the grievance of the

petitioner and pass an appropriate order.

Having heard learned counsel for the parties, this Court finds that there is admission of fact by the respondent-State in the counter affidavit about the

right of Mul Raiyati, which is prescribed in Column 12 of page 392 of the Santhal Pargana Manual, 1911. It is also not clear under which provision of

law, the impugned order at Annexure-1 has been passed. On query from the learned counsel for the respondent-State, he has also not been able to

say anything in this regard. This Court further finds that the order passed by the Additional Deputy Commissioner, Deoghar is cryptic in nature. The

petitioner has not been provided any opportunity of hearing before passing of the impugned order. The order has not discussed anything about the

dispute in question. In view of the well settled proposition of law, particularly considering the judgment rendered by the Hon'ble Supreme Court in the

case of Central Board of Trustees v. M/s Indore Composite Pvt. Ltd., reported in (2018) 8 SCC 44,3 the impugned order cannot sustain in the eyes of

law.

Paragraph 14 of the said judgment is quoted herein below:

“14. Time and again, this Court has emphasized on the courts the need to pass reasoned order in every case which must contain the

narration of the bare facts of the case of the parties to the lis, the issues arising in the case, the submissions urged by the parties, the legal

principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case and urged by the

learned counsel for the parties in support of its conclusion. It is really unfortunate that the Division Bench failed to keep in mind these

principles while disposing of the writ petition. Such order, in our view has undoubtedly caused prejudice to the parties because it deprived

them to know the reasons as to why one party has won and other has lost. We can never countenance the manner in which such order was

passed by the High Court which has compelled us to remand the matter to the High Court for deciding the writ petition afresh on merits.â??

In view of the aforesaid facts and judicial pronouncement, the letter no. 194(R) dated 10.03.2012 issued by the Additional Deputy Commissioner,

Deoghar is, hereby, quashed.

Accordingly, this writ petition stands allowed and disposed of.

I.A. No. 3557 of 2014 also stands disposed of.