
(2025) 07 JH CK 1186
In the Jharkhand High Court
Case No : W.P.(C) No. 5984 Of 2001

Anand Kumar Baraik

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 02-07-2025

Acts Referred:

Chota Nagpur Tenancy Act, 1908 — Section 71A
Bihar Land Reforms Act, 1950 — Section 6

Citation : (2025) 07 JH CK 1186

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : P.P.N. Roy, Ram Prakash Singh, Bhaiya V. Kumar

Final Decision : Dismissed

Judgement

Gautam Kumar Choudhary, J

1. The petitioners are aggrieved by the order of restoration of land passed under Section 71-A of the Chhotanagpur Tenancy Act (for short CNT Act) by the Special Officer, Schedule Area Regulation, Khunti in SAR No. 03/1995.

2. The order of restoration dated 20.11.1995 was assailed in SAR (Appeal) No. 8R 15/1995-96 which was allowed in favour of the petitioner against which original respondent no. 5 preferred SAR (Revision) No. 79/1997 before the Commissioner, South Chhotanagpur, Ranchi. The Revisional Court set aside the order passed in appeal, affirming the order of restoration passed by the Special Officer.

3. Heard both sides and perused the record of the case.

4. Challenge to the revisional order for restoration proceeds mainly on three grounds:

Firstly, original respondent no. 5 was not a Member of Schedule Tribe and, therefore, the provision of CNT Act shall not apply.

Secondly, the nature of land was not a raiyati land and was recorded in the name of Gokul Baraik for services rendered by him and the nature of tenancy was Naukarana and no rent was realized from his for the services rendered.

Consequently, the tenancy was Belagan. It is submitted that in view of the ratio laid down by the Patna High Court in 1988 PLJR 888, the said land was deemed to be in Khas cultivating possession of the landlord and, therefore, after vesting under Section 6 of the Bihar Land Reforms Act, 1950, it was saved from vesting and the landlord acquired the raiyati right over the said land.

Thirdly, in 1938 the said land was settled in favour of the grandfather of Jagdish @ Jagdish Chik Baraik who came in cultivating possession and is paying rent to the State.

5. It is further argued that there is a difference between the caste 'Baraik' and caste 'Chik Baraik'. Whereas the former does not come under Schedule Tribe as per the list of Schedule Tribes in Part-II of Schedule to the Constitution as amended by Schedule Castes and Schedule Tribes (Amendment) Act, 1956.

6. The pivot of argument is that original respondent no. 5 is by caste 'Baraik' who does not come under the category of Schedule Tribes in view of the ratio laid down by the Patna High Court 1988 BLT(Rep) 13.

7. I find much force in the argument advanced on behalf of original respondent no. 5, that in the Khatiyana as well as in the order passed by the SAR Officer (Annexure-1), there is specific reference that original respondent no. 5 comes from caste 'Chik Baraik' who is the Member of Schedule Tribe. Therefore, the plea that the CNT Act will not apply is without any merit and is accordingly, rejected.

8. Second limb of argument regarding the land being Naukrana, is of no help to the petitioner as the claim over the land is not made that Petitioner was heir and descendant of the land lord and the same did not vest on coming into force of the Bihar Land Reforms Act.

9. Definite case of the Petitioners is that land was acquired by settlement in 1938. However, the admitted position is that the land was originally recorded in the record of right in the name of Gokhul Baraik as Naukarana and services were rendered in lieu of rent. Unless there is any pleading or evidence of resumption of the land by the ex-landlord, the plea that land was acquired by settlement does not hold ground. There is also no evidence that any return was filed with respect to the settled land, or the rent roll was prepared after the said settlement. A few revenue receipts of the year 1999 are no evidence of settlement followed by possession.

10. Petitioner's claim over the land on the basis of settlement is therefore not sustainable.

11. I do not find any infirmity in the impugned order.

Writ Petition accordingly stands dismissed.

Pending I.A., if any stands disposed of.