

(2002) 08 JH CK 0054
In the Jharkhand High Court
Case No : CWJC No. 2606 of 1994

Anterdhari Sao

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 22-08-2002

Acts Referred:

Bihar Land Reforms Act, 1950 — Section 4

Citation : (2002) 08 JH CK 0054

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : P.K. Sinha, S. Bose and R.N. Mukherjee, for the Appellant;
Azeemuddin, J.C. to G.P. I for respondent Nos. 1 to 6, for the Respondent

Final Decision : Partly Allowed

Judgement

M.Y. Eqbal, J.—Heard Mr. P.K. Sinha, learned senior counsel for the petitioner. No one appears on behalf of the respondents No. 7 to 19.

2. The petitioner has challenged the order dated 4.10.1993/17.3.1994 (Annexure 14) passed by the Commissioner, North Chotanagpur Division, Hazaribagh in Mutation Revision Case No. 13/93 and also orders dated 9.12.1992/23.12.1992 passed by the Additional Collector, Hazaribagh in M.R.N. Case No. 7/92 (Annexure 12) whereby the orders dated 13.11.1986 and 17/28.12.1991 (Annexures 8 and 10) passed by the Circle Officer, Mandu and L.R.D.C. Hazaribagh have been set-aside.

3. The facts of the case lie in a narrow compass.

4. The lands comprised within plot Nos. 620 and 582 under Khata No. 34 of village Chainpur and also plot Nos. 84 and 85 under Khata No. 1 of village Barabanda were settled by the then Landlord in favour of the grand-father of the petitioner sometime in the year 1937. The settlee used to pay the rent to the Ex-Landlord. However, in 1949 Jamabandi was opened in the name of the grand-father of the petitioner and after vesting of Zamindari under the Bihar Land

Reforms Act, 1950 the State of Bihar granted rent receipt in his favour. The name of the grand-father of the petitioner was also entered into Registrar No. II maintained in the office of the Circle Officer. For one or other reason the State of Bihar has stopped granting rent receipt from 1986. The present petitioner being a grand-son filed an application for creation of the Jamabandi and also for issuance of a rent receipt. The said application was registered as case No. 20/86/87. The Circle Officer passed final order on 17.10.1986 on the basis of enquiry and also on perusal of other documents and allowed the application filed by the petitioner and started granting rent receipt. However, in 1990 some of the villagers (Respondents No. 7 to 19) raised objection and filed appeal before the Land Reforms Deputy Collector, Hazaribagh, against the order of the Circle Officer, Mandu for creating Jamabandi and issuing of rent receipt in favour of the petitioner. The appeal was remitted back to the Circle Officer for further enquiry and passing fresh order. The Circle Officer then got the enquiry made by the Halka Karamchari as also Circle Inspector and then again held that the land at all points of time was possessed by his predecessors-in-interest. Accordingly the Circle Officer passed similar order and held that the petitioner was entitled to grant of rent receipt in respect of the land in question. The said respondents then preferred an appeal before the Additional Collector, Hazaribagh. The Additional Collector after hearing the parties passed a reasoned order on 9.12.1992/23.12.1992 whereby he allowed the appeal and set-aside the order passed by the Circle Officer, The Additional Collector held that the land in question is Gairmajurwa Khas Land which was used as a grazing field. Against the aforesaid order the petitioner preferred Revision before the Commissioner, North Chotanagpur Division, Hazaribagh, which was registered as Mutation Revision No. 13 of 1993. The order of the Commissioner reads as under :--

"Order could not be passed earlier on account of my preoccupation with other matters.

2. Shri Autardhari Sao filed an application before Anchal Adhikari, Mandu stating therein that Jamabandi in respect of Khata 34, plot 582, 620 and Khata 1, Plot-84 and 85 of village Chainpur in Mundu Anchal was continuing in his name but issue of R.R. was stopped on account of non-payment of rent. It was registered as Case No. 20/85-86. Anchal Adhikari passed orders for issuance of Rent Receipt on 13/11/86 less than a month if filing application. The villagers filed an objection before L.R.D.C. L.R.D.C. confirmed the orders for creation of Jamabandi. The villagers then came up in appeal before Additional Collector, who set-aside the orders of L.R.D.C. and Anchal Adhikari. The instant petition is against this order.

3. The copy of register II of village Chainpur filed by this petitioner indicates issuance of one rent receipt of 54-55 in authority for change column but same is not shown in place meant for collection.

4. It is true that immediately after the vesting the K.Cs were competent to issue rent receipt on the basis of rent receipts being issued by ex-landlord. The

practice was misused to such an extent that the powers were withdrawn and has been given to S.D.O. only.

5. The orders passed by Anchal Adhikari for opening Jamabandi after 30 years were without jurisdiction. They have been rightly set-aside.

6. The petition is accordingly dismissed at the admission stage itself."

5. From bare perusal of the order passed by the Commissioner it is manifest that he has not considered the entire facts of the case and the relevant law upon by the petitioner and has failed to meet the reasonings given by the petitioner while assailing the order passed the Additional Collector. In my opinion, matter needs full consideration by the Commissioner who is supposed to pass a reasoned order in accordance with law.

6. For the aforesaid reasons this writ petition is allowed in part and the impugned orders dated 4.10.1993/17.3.1994 passed by the Commissioner, North Chotanagpur Division, Hazaribagh in rejecting the Mutation Revision No. 13/93 is set-aside and the matter is remitted back to him for passing a fresh order after giving opportunity of hearing to the parties. Since the matter in question is pending for the last so many years, the Commissioner, North Chotanagpur Division, Hazaribagh is directed to dispose of the revision application filed by the petitioner within one month from the date of receipt/production of a copy of this order.