
(2014) 11 JH CK 0009
In the Jharkhand High Court
Case No : WP(C) No. 1242 of 2010

Anup Kumar and Others

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 25-11-2014

Acts Referred:

Citation : (2015) 3 JLJR 77

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : R.P. Gupta, Advocate for the Appellant;

Final Decision : Allowed

Judgement

S. Chandrashekhar, J.

1. Seeking quashing of order dated 3.4.2008 in Misc. Case No. 23 of 2007-08 whereby an order for cancellation of suspicious Jamabandi has been passed by the Circle Officer, Katkamsandi, with further prayers seeking quashing of order dated 30.5.2008 and order dated 28.7.2008, the present writ petition has been filed. The brief facts of the case are that, the land comprised in Plot Nos. 848 and 882 in Khata No. 251 situated in Village-Sirsi, Katkamsandi, District Hazaribagh, admeasuring 18.0 Acres was recorded in the name of Ex-landlord as Garmajurwa Khas. On 28.9.2007, the Sub-Divisional Officer, Hazaribagh called a report from the Circle Officer, Katkamsandi in Misc. Case No. 2002 of 2007 between "State and Arun Prajapati". Vide letter dated 8.10.2007, the Anchal Adhikari, Katkamsandi sent a report in which the name of the father of the petitioner namely, Ram Charan Chamar is mentioned at Serial No. 4 as Raiyat in whose name Jamabandi was running. On direction of the Sub-Divisional Officer, vide Memo dated 3.12.2007, the Circle Officer, Katkamsandi initiated Rent Receipt Case No. 28 of 2007. Though the name of the father of the petitioner is recorded in Register II of the year, 1973 and rent receipt was issued in his name since 1954, without impleading the petitioner, and without giving opportunity of

hearing, the Circle Officer sent the record to Sub-Divisional Officer, Hazaribagh on 3.4.2008. Further, the Sub-Divisional Officer, Hazaribagh passed order dated 30.5.2008 for cancellation of rent receipt, without issuing notice to the petitioner and the Additional Collector, Hazaribagh vide order dated 28.7.2008 confirmed the order passed by the Sub-Divisional Officer, Hazaribagh.

2. Mr. R.P. Gupta, the learned counsel appearing for the petitioner submitted that when Jamabandi was created in the name of the father of the petitioner on the basis of settlement "of land by the then Ex-landlord by virtue of Hukumnama followed by acceptance of rent not only by the Ex-landlord but also by the State of Bihar after vesting of zamindari, the authority has got no power to cancel Jamabandi in the manner it has been done. The learned counsel appearing for the petitioner further submits that, otherwise also the impugned orders are bad in law as the petitioner was never given any opportunity either by the Sub-Divisional Officer, Hazaribagh or by the Deputy Commissioner for hearing before passing the impugned orders.

3. The learned counsel appearing for the respondent-State of Jharkhand does not dispute that neither any notice was issued nor the petitioner was heard before the impugned orders were passed against him.

4. In aforesaid view of the matter, the impugned orders are liable to be quashed being passed in breach of rules of Natural Justice. Accordingly, without expressing any opinion on the merits of the case, the writ petition is allowed. The impugned orders are set aside. The matter is remitted back to the Circle Officer, who after issuing notice to the petitioner, would proceed in the matter, in accordance with law.