
(2006) 10 JH CK 0033
In the Jharkhand High Court

Atul Kumar Jha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 18-10-2006

Acts Referred:

Citation : (2007) 3 JCR 176

Hon'ble Judges : M. Karpaga Vinayagam, C.J;R.K. Merathia, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.K. Merathia, J.—The appellant, challenging the order of refusal to the licence and the order of eviction, has filed the writ petition. The same has been dismissed by the learned single Judge; hence this appeal.

2. The only question raised by the learned Counsel for the appellant is that he has admittedly licence and originally he was given allotment of the area in question for a period of two years. Thereafter, he filed application for renewal. Pending the renewal application, the order of removal of encroachment was passed and while the order of removal of encroachment was challenged, learned Single Judge passed an order directing the Deputy Commissioner, East Singhbhum, to hear and pass final order with reference to the renewal. It is contended by the counsel for the appellant that in the event of renewal not being considered, the authority ought to have initiated eviction proceeding and without initiating the eviction proceeding, the authority concerned straightway passed the order of eviction which is not valid. According to him, eviction proceeding must have been initiated according to the law and rules as contemplated by the Act and straightway resorting to eviction without following the required rules is not in accordance with law and as such, the learned Single Judge is wrong in dismissing the writ petition.

3. We have heard counsel for the appellant and the counsel for the respondents.

4. There is no dispute in the fact that the allotment of the place was made in

favour of the appellant on 21.9.2002 only for a period of two years. Even according to the appellant, on 27.9.2004 he filed an application for renewal before the authority concerned and the same was pending. In the meantime, an order has been passed by the authority in pursuance of the order of this Court in a petition filed by one, Basudeo Singh, for removal of the encroachment and for removal of all the persons whose period of license has not been extended. Challenging that, the writ petition has been filed by the appellant along with two others in whose favour allotment was made in the same row. By order dated 2.2.2006, the learned Single Judge passed an order directing the authorities to hear the petitioners therein and pass an order determining their case for renewal or for eviction. The relevant portion of the order dated 2.2.2006 is as follows:

In the facts and circumstances, the last part of the impugned order dated 20th December, 2005, so far it relates to the petitioners, is set aside. The cases of all the petitioners are remitted to the Deputy Commissioner, East Singhbhum, Jamshedpur. The petitioners will appear before him on or before 28th February, 2006 and produce their licenses and the applications, if any, preferred for renewal of such licenses. The Deputy Commissioner, East Singhbhum, Jamshedpur, in his turn, after hearing the petitioners, will determine whether it would be appropriate in the case of one or other petitioner to renew the license; and/or to evict them. Till such decision is taken, the authorities will not evict the petitioners.

5. In pursuance of the aforesaid order, the authority concerned, the Deputy Commissioner, conducted an enquiry, heard the parties and ultimately came to the conclusion that as the construction of the building in the place allotted was causing inconvenience in the thoroughfare and also preventing widening of the road, it would be appropriate to pass order refusing to renew and evicting the said petitioners from the place allotted. This order has been passed on 24.4.2006. As indicated above the learned Single Judge, in the impugned order, said nothing wrong that the order dated 24.4.2006 has been passed by the Deputy Commissioner in pursuance of the order passed by this Court on 2.2.2006.

6. The main contention urged by the counsel for the appellant is that the order of eviction has been passed without following all the procedures.

7. This contention of the counsel for the appellant is not sustainable in view of the fact that admittedly on the relevant date, i.e., on 24.4.2006, the appellant was not having any license. As a matter of fact, the learned Single Judge, by the order dated 2.2.2006, as indicated above, directed the authorities to determine whether it would be appropriate to renew the license or to evict them. Admittedly there is no existing right for them to stay in the allotted place in respect of the period, since the period of allotment was already over. Learned Single Judge, in our view, has correctly decided the matter and categorically held that the district administration started the process for removal of encroachments for the purpose of widening the road and in view of the fact that the license was not renewed,

the district administration correctly issued direction for removal of the shops. The perusal of the impugned order dated 24.4.2006 would also indicate that proper reasons have been given for refusal to renew the license and for removal of the encroachment.

8. In the above circumstances, we find no merit in this appeal, which is accordingly dismissed.