

(2011) 08 JH CK 0141

In the Jharkhand High Court

Case No : Writ Petition (C) No. 6888 of 2004

Babu Ram Mahto and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 01-08-2011

Acts Referred:

Chotanagpur Tenancy Act, 1908 — Section 215

Citation : (2011) 4 JCR 233

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N.N. Tiwari, J.—By the Court.--In this writ petition, the petitioners have prayed for quashing the order dated 10.6.2004 passed in Misc. Case No. M.R.N. 13 of 1996.

2. It has been stated that the petitioners had purchased the land from one Bhaiya Mathili Sharan. The land originally belonged to one Sadashiv Lal. Sadashiv Lal had transferred the land in question to one Ganga Prasad way back in the year 1906. The Cadestral Survey Khewat No. 2 was recorded in the name of Ganga Prasad and others. Ganga Prasad and others settled the said lands to different persons by virtue of registered documents. The settlees were recorded as Mukrirdars in respect of C.S. Khewet Nos. 3/1 to 3/5 and Khewet No. 3/6. The Mukrirdars, through whom the Opposite Parties claimed the land, were required to pay rent to the superior landlord-Ganga Prasad and others. As the Mukrirdars defaulted in paying rent to the superior landlord, two Rent Suit were filed in the year 1916-17. Both the suits were decreed. Thereafter, Execution Case Nos. 216 and 161 of 1919 was levied by the superior landlords to execute the rent decrees. In the said Execution Case, the entire interest of Mukarari Khewet was taken back by the superior landlord-Ganga Prasad and others. There was amicable partition among the family members of Ganga Prasad and others. A Title Suit was filed in the Court of Munsif, Hazaribagh being Title Suit No. 106 of

1972. In the said Title Suit, land of khata No. 13 Plot No. 1022 in respect of 2 acres along with other lands were allotted to Bhaiya Maithili Sharan. After some time, Bhaiya Maithili Sharan sold the suit land to Nazo Mahto and others. The petitioners are purchasers from Bhaiya Maithili Sharan. They have been in peaceful possession of the land in question. In the year 1995, the respondents filed an application before the Anchal Adhikari, Gola, Hazaribagh for issuing rent receipts in respect of the land in question in their favour. The petitioners' names were running in the Revenue Record since long on the basis of their purchase. Suddenly by order dated 23.1.1995, the Anchal Adhikari, even without issuing any notice or without hearing the petitioners, deleted the names of the petitioners from Revenue Record and directed to issue rent receipts in the name of the respondents. The petitioners preferred appeal against the order of the Anchal Adhikari before the Land Reforms Deputy Collector, Hazaribagh. The appellate Court issued notice to the respondents and called for the Lower Court Records. After hearing the parties and considering the facts and circumstances of the case, the appellate Court came to the conclusion that the petitioners are the bona fide purchasers and on the basis of their purchase, jamabandi was opened in their names and the petitioners were in cultivating possession. He further held that the Anchal Adhikari had acted illegally in setting aside the jamabandi running in the names of the petitioners since long, even without issuing any notice to the affected persons or without publishing any general notice. Learned DCLR set aside the order and allowed the appeal. Against the said order, the respondents filed Misc. Case No. M.R.N. 13 of 1996. The Additional Collector vide order dated 10.6.2004 set aside the order of the LRDC. The Addl. Collector has not considered the relevant facts and the law and decided the revision only on the ground that the DCLR had no power to hear revenue appeal u/s 215 of the Chota Nagpur Tenancy Act.

3. Learned counsel for the petitioners submitted that it was nobody's case that the appeal before the LRDC was filed u/s 215 of the CNT Act. Section 215 of the CNT Act provides for an appeal from the order of the Deputy Collector passed in suits tried by him.

4. He submitted that jamabandi opened under the provisions of Bihar Land Reforms Act was interfered With by the Anchal Adhikari without any jurisdiction.

5. Counsel submitted that the DCLR considering the facts of the case as well as considering that no notice was issued to the jamabandi raiyats before cancelling their jamabandi, had rightly quashed the order. Learned Addl. Collector has casually dealt with the matter and without application of mind on the facts and correct provisions of law, has set aside the legal order of the DCLR. The order of the learned Addl. Collector is wholly illegal and without jurisdiction.

6. Learned G.A. appearing on behalf of the respondents has not disputed the legal position.

7. I have heard the learned counsel appearing for the parties and considered the

facts, and materials on record. The learned Addl. Collector, who has passed the impugned order, appears to have taken the matter casually without applying his mind. The DCLR had exercised appellate power within the ambit of the provisions of Bihar Land Reforms Act and had rightly held that the jamabandi running in favour of the petitioners cannot be cancelled by the Anchal Adhikari, and that too, without issuing any notice and without giving opportunity of hearing of the concerned raiyats.

8. It is well settled that the Anchal Adhikari has no jurisdiction to cancel a running jamabandi. In the instant case, the Anchal Adhikari had cancelled the long running jamabandi of the petitioners even without issuing any notice and without giving any opportunity of hearing. The learned DCLR had, rightly interfered with the illegal order of the Anchal Adhikari and had allowed the appeal. The Addl. Collector, under misconception of legal provisions, has erroneously set aside the order of the DCLR quoting the provisions of Section 215 of the C.N.T. Act which has no application in the case. The impugned order is perverse and unsustainable in law.

9. This writ petition, accordingly, allowed. Impugned order dated 10.6.2004 passed in Misc. Case No. M.R.N. 13 of 1996 is quashed.