
(2021) 04 JH CK 0035

In the Jharkhand High Court

Case No : Writ Petition(C) No. 1426 Of 2021, I.A. No.1981 Of 2021

Bajrang Prasad Umar & Ors

APPELLANT

Vs

District Registrar-cum-Deputy Commissioner, Deoghar & Anr

RESPONDENT

Date of Decision : 06-04-2021

Acts Referred:

Registration Act, 1908 — Section 82, 83

Citation : (2021) 04 JH CK 0035

Hon'ble Judges : Rajesh Shankar, J

Bench : Single Bench

Advocate : Onkar Nath Tewary, Vandana Singh

Final Decision : Allowed

Judgement

The present writ petition is taken up today through Video conferencing.

Learned counsel for the petitioners undertakes to remove the remaining defects, as pointed out by the office, within a period of two weeks.

The present writ petition has been filed for quashing the entire proceeding of Miscellaneous Complaint Case No.22 of 2020-21 (Biplab Boss and Bramdeo Umar & Ors.) including the notices dated 9th March, 2021 issued to the petitioners and others under the signature of the respondent no.1 (Annexure-1 to the supplementary affidavit dated 5th April, 2021 filed on behalf of the petitioners), whereby they have been intimated that a proceeding has been initiated under Sections 82 and 83 of the Registration Act, 1908 (in short 'Act, 1908') as well as in the light of circular as contained in memo no.930 dated 21st September, 2016 issued by the Department of Revenue, Registration and Land Reforms, Government of Jharkhand.

Learned counsel for the petitioners submits that one Atindra Nath Mitra, legal heir of the recorded tenant sold 23.73 acres of land of Mouza- Rohini No.196 to Prahlad Prasad Sah vide registered sale deed no.1357 dated 30th May, 1960. The said purchaser applied for mutation whereafter Mutation Case No.253 of 1971-72

was registered by the Circle Officer, Deoghar and on inquiry, the said land was mutated in his favour who thereafter remained in peaceful possession of the said land. It is further submitted that the petitioner nos.1 and 2 are the sons of Prahlad Prasad Sah whereas the petitioner no.3 is his grandson. After death of Prahlad Prasad Sah, the petitioners have been in peaceful possession of the said land. Learned counsel for the petitioner further submits that on a complaint filed by the respondent no.2, the respondent no.1 initiated a Miscellaneous Complaint Case No.22 of 2020-21 purportedly under Sections 82 and 83 of the Act, 1908 as well as in the light of circular as contained in memo no.930 dated 21st September, 2016 issued by the Department of Revenue, Registration and Land Reforms, Government of Jharkhand. The petitioners were issued notices dated 9th March, 2021, the copies of which have been annexed as Annexure-1 to the supplementary affidavit filed on behalf of the petitioners on 5th April, 2021.

Learned counsel for the petitioners also submits that the respondent no.1 in the capacity of District Registrar is not competent to decide as to whether registration of document has been done fraudulently or otherwise. The District Registrar is also not conferred with any power to cancel the sale deed registered by the Sub-Registrar. Hence, initiation of the proceeding being Miscellaneous Complaint Case No.22 of 2020-21 by the respondent no.1 is completely illegal. Moreover, Sections 82 and 83 of the Act, 1908 also do not confer power to the District Registrar to cancel a registered document, rather the same only speak of penalty and prosecution, respectively. It is further submitted that the said miscellaneous complaint case has been listed before the respondent no.1 today and as per instruction, though one of the noticees i.e., Bramdeo Umar has died, the said respondent is bent upon to dispose of the said case hurriedly without even impleading the legal heirs of said deceased noticee in the aforesaid miscellaneous complaint case. It is also submitted that in a similar case being W.P.(C) No.07 of 2021 (Mrs. Arati Roy Choudhary vs. The State of Jharkhand & Ors.) this Court vide order dated 8th February, 2021, while granting time to State respondents to file counter affidavit has stayed the proceeding initiated by the respondent no.1.

Mrs. Vandana Singh, learned Sr. S.C.-III appearing on behalf of the respondent no.1 submits that on receipt of complaint of the respondent no.2, the impugned proceeding has been initiated by the respondent no.1 on being prima facie satisfied that the sale deed in question was executed in favour of late Prahlad Prasad Sah in a fraudulent manner. Hence, it cannot be said that the proceeding initiated by the respondent no.1 is illegal and without jurisdiction. However, learned Sr. S.C. III appearing on behalf of the respondent no.1, prays for four weeks' time to seek instruction and file counter affidavit on behalf of the said respondent.

The time, as prayed for, is allowed.

Issue notice to the respondent no.2 under registered cover with A/D for which requisites etc. must be filed within a period of one week.

Put up this case along with W.P.(C) No.07 of 2021 and other analogous cases on 10th June, 2021.

Till then, further proceeding of Miscellaneous Complaint Case No.22 of 2020-21 pending before the respondent no.1 shall be kept in abeyance.

I.A. No.1981 of 2021 stands disposed of.