

(2020) 05 JH CK 0084

In the Jharkhand High Court

Case No : W. P. (C) No. 5090, 5227, 5238, 5887, 4727 of 2003

Barnad Dungdung And Ors

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 21-05-2020

Acts Referred:

Chota Nagpur Tenancy Act, 1908 — Section 48, 49, 49(5), 49(2)(b), 46(4 A)(III)
Constitution of India, 1950 — Article 166, 226

Citation : (2020) 05 JH CK 0084

Hon'ble Judges : Rongon Mukhopadhyay, J

Bench : Single Bench

Advocate : Jai Prakash Jha, Anil Kumar, Ashish Kumar Thakur, Mokhtar Ahmad, Sarju Prasad, Manoj Tandon

Final Decision : Allowed

Judgement

1. Since common questions of law and fact are involved in all these writ applications, the same are being disposed of by this common order.

2. Heard Mr. J. P. Jha , learned senior counsel appearing for the petitioners in W.P. (C) No. 5090 of 2003, W.P.(C) No. 5227 of 2003 and 5238 of 2003; Mr. Anil Kumar, learned senior counsel for the petitioners in W.P.(C) No. 4727 of 2003 and W.P.(C) No. 5887 of 2003 and Mr. Ashish Kumar Thakur, A.C. to S.C. (L & C) for the State - respondents in all the cases; Mr. Sarju Prasad, learned counsel appearing for the respondent no. 5 and Mr. Manoj Tandon, learned counsel appearing for the intervenor - respondent no. 6 in W.P.(C) No. 5090 of 2003 and 4727 of 2003.

W. P.(C) No. 5090 of 2003:

3. In this writ application, petitioners have prayed for quashing of the order dated 30.04.2003 passed by the respondent no. 2 in Case No. 5/Aadi-Misc. Case No. 7/2001-02 by which the order dated 30.06.1987 passed by the Deputy Commissioner, Ranchi granting permission under Section 49 of the Chotanagpur

Tenancy Act has been set aside.

4. The facts of the case reveal that the petitioners are the members of the Scheduled Tribe Community and also bona-fide members of Lieven's Co-operative Society (respondent no. 5) which was formed by the members of the Scheduled Tribes for providing housing facility to its members and it was registered under the provisions of the Bihar and Orissa Co-operative Societies Act bearing registration no. 54/R-85.

5. The Co-operative Society for achieving its aims and objects entered into an agreement for sale with the land owners of Plot No. 612 of Khata No. 44 measuring an area of 73 decimals at Village Argora, District Ranchi. The land owners of the plot in question made an application to the competent authority namely, Deputy Commissioner, Ranchi (respondent no. 4) which was registered as Case No. 11/1986-87. After holding necessary inquiry, the respondent no. 4 granted permission under Section 49 of the Chotanagpur Tenancy Act (hereinafter referred to as 'CNT Act' for the sake of brevity) to sale 73 decimals of the said land for valuable consideration in favour of respondent no. 5 vide order dated 30.06.1987 with the condition to deposit 50% of the sale price in the shape of National Savings Certificate in the name of the vendors and the remaining 50% in the Savings Bank Account of the vendors after deducting the advance, if any.

6. Thereafter, the Co-operative society complied with the conditions regarding deposit of the amount and after necessary verification, the Deputy Commissioner, Ranchi vide order dated 21.12.1987 permitted the registration of the sale deed. The sale deed was accordingly registered by the land owners through registered deed of sale dated 19.12.1988 and prior to the execution of the sale deed, the verification was done regarding the deposit of the amount in the concerned pass-book.

7. It has been stated that the name of the Society was mutated by the Circle Officer, Ranchi in Mutation Case No. 711/1987-88 and rent receipts were also granted in favour of the society. The respondent no. 5 thereafter divided the plot into several sub-plots and after due allotment of the sub-plots, transferred the same to the petitioners by executing registered deed of sale in favour of the petitioners and other members of the society.

After registration of the sale deed, the petitioners came in possession of the land purchased by them and are in continuous possession of the same.

8. The petitioners in the month of September 2003 came to know that the permission granted by the respondent no. 4 in favour of the respondent no. 5 has been set aside and the transfer has been annulled. On inquiry, it came to the knowledge of the petitioners that for setting aside the permission granted by the respondent no. 4, the State Government had suo-motu registered Case No. 5/ Aadi-Misc. Case No. 7/2001-02 against the respondent no. 5 in which the respondent no. 2 vide order dated 30.04.2003 had set aside the order dated

30.06.1987 passed by the respondent no. 4.

9. In the counter affidavit filed by the respondent nos. 1 to 3, it has been stated that the proceedings under Section 49 (5) of the CNT Act was initiated vide Misc. Case No. 7/1997-98 by the erstwhile Governor of Bihar on 21.05.1997. After creation of the State of Jharkhand, the file was transferred to the State of Jharkhand, where the case was renumbered as Misc. Case No. 7/2001-02. The complainant Hoda Oraon as well as the President of the Co-operative Society had appeared. It has also been stated that a general notice was also published in the daily newspaper "Prabhat Khabar" on 16.10.2001. An order was passed on 30.04.2003, setting aside the order of the Deputy Commissioner, Ranchi dated 30.06.1987. It has further been stated that there is no violation of the Principles of Natural Justice as apart from the President of the Society appearing, a general notice was also published intimating all concerned about the pending proceedings.

It has been stated that since permission was granted to the respondent no. 5 and not to the writ petitioners individually, as such there was no question of impleadment of the writ - petitioners in Misc. Case No. 7/2001-02. The President of the Society (respondent no. 5) did not appear subsequently nor had filed any show-cause, as such there was no option for the respondent no. 2 but to decide the issue.

10. In the counter affidavit filed on behalf of the respondent no. 5 - Society, it has been stated that the lands were acquired for the Co-operative Society which were transferred to the members of the society and the impugned order therefore suffers from mis-joinder of parties. It has also been stated that the impugned order also reveals non-application of mind as the question of limitation was never considered.

11. A counter affidavit has also been filed on behalf of the intervenor/respondent no. 6 in which it has been stated that the answering respondent and his ancestors were the occupancy Raiyats having occupancy right, since in the Khatiyas, the nature of land has been shown as Kaimi. It has also been stated that the land was being used for residential purposes and not for the purposes as mentioned in Section 49 (2)(b) of the CNT Act. The permission to sale the land was given on 0.06.1987 and the complaint regarding the illegality committed by the Deputy Commissioner, Ranchi was pointed out by none else than the Deputy Commissioner himself vide letter number 179 (1) dated 21.11.1996 and letter no. 5 (1) dated 07.01.1997 and therefore such complaint was made within time.

12. In the reply filed by the petitioner to the counter affidavit filed by the respondent no. 6, it has been stated that the landed property which was standing in the name of the ancestors of the private respondent was admittedly acquired through purchase after due permission from the Deputy Commissioner with the sole purpose to provide lands to the members of the Co-operative Society and there was absolutely no violation of Section 49 of the CNT Act. It has also been stated that some of the petitioners after purchase of the landed property through

the Society have constructed their respective houses after spending a huge sum of money.

W. P. (C) No. 5227 of 2003:

13. In this writ application, the petitioners have challenged the order dated 30.04.2003 passed by the respondent no. 2 in Case No. 5/Aadi-Misc. Case No. 8/2001-02 by which the order of the Deputy Commissioner, Ranchi granting permission for transfer dated 30.06.1987 has been set aside.

14. The factual aspect of the case reveal that the petitioners are the members of the Co-operative Society (respondent no. 5) and the society for achieving its aims and objects entered into an agreement for sale with the land owner of Plot No. 445/A of Khata No. 112 measuring an area of 1.36 ½ acres at village Argora, PS Argora, District Ranchi. The land owners of the plot in question made an application to the respondent no. 4 which was registered as Case No. 79/1986-87 and after holding necessary inquiry, respondent no. 4 granted permission under Section 49 of the CNT Act to sale 0.36 ½ acres of land for valuable consideration in favour of respondent no. 5 vide order dated 30.06.1987 with a condition to deposit 50% of the sale price in the shape of National Savings Certificate in the name of the vendors and the remaining 50% in the savings bank account of the vendors after deducting the advance, if any.

The conditions as imposed were complied with and the name of the respondent no. 5 - Society was mutated by the Circle Officer, Ranchi in Mutation Case No. 833/1988-89. Further assertion has been made that plot was divided into several sub-plots and after due allotment, the sub-plots were transferred to the members of the society including the petitioners.

15. A proceeding was initiated before the respondent no. 2 in Case No. 5/Aadi-Misc. Case No. 8/2001-02 against the respondent no. 5 and vide order dated 30.04.2003 the order dated 30.06.1987 passed by the Deputy Commissioner, Ranchi was set aside.

16. In the counter affidavit filed on behalf of the respondent nos. 2 and 3, it has been stated that the land of Khata No. 112, Plot No. 445, Area 0.73 acres situated at village Argora stands recorded in the name of Nando Oraon and Etwa Oraon, sons of Bhikari Oraon and others in the R. S. Khatian. Kumari Jitan Oraon was granted permission to transfer the land of Khata No. 112, Plot No. 445 measuring an area of 1.36 ½ acres to the respondent no. 5. Since it came to the notice of the Deputy Commissioner, Ranchi that conditions on which permission for transfer of the land in question to the society (respondent no. 5) was violated, recommendation was made for annulment of the order of transfer vide letter no. 179 (i) dated 21.11.1996 and letter no. 5(i) dated 17.01.1997 of the Deputy Commissioner, Ranchi.

W. P. (C) No. 5238 of 2003:

17. In this writ application, the petitioners have challenged the order dated

30.04.2003 passed by the respondent no. 2 in Case No. 5/Aadi-Misc. Case No. 19/2001-02 whereby and whereunder the respondent no. 2 has set aside the order dated 27.12.1991 passed by the Deputy Commissioner, Ranchi by which the permission was granted for transfer under Section 49 of the CNT Act.

18. It has been averred by the writ petitioners that all the petitioners are members of the Co-operative Society (respondent no. 5) and the Co-operative Society in order to fulfill its aims and objects entered into an agreement for sale with the land owners of plot no. 1121 and 1122 of Khata No. 189 measuring an area of 1.48 acres at village Argora, PS Argora, district Ranchi. The land owners of the plot in question made an application before the Deputy Commissioner, Ranchi (respondent no. 4) which was registered as Case No. 19/1987-88. After holding necessary inquiry, the respondent no. 4 granted permission under Section 49 of the CNT Act to sale 0.48 acres of land for valuable consideration in favour of respondent no. 5 - Society vide order dated 27.12.1991 on the condition that the transfer was for building residential houses for the members of the Society.

19. The sale deed was registered by the land owners vide registered deed of sale no. 5187 dated 23.05.1992. The name of the Society (respondent no. 5) was also mutated by the Circle Officer, Ranchi vide Mutation Case No. 466 (iii)/1992-93 and rent receipts were also granted in favour of the society. The plots were thereafter divided into several sub-plots and after due allotment of the sub-plots, the same were transferred to the petitioners by executing registered deed of sale in favour of the petitioners and other members of the Society. After registration of the sale deed, the petitioners came in possession of the same and are also in continuous possession.

20. The respondent no. 2 vide order dated 30.04.2003 had set aside the order dated 27.12.1991 passed by the respondent no. 4 with a further direction to the respondent no. 4 to restore possession of the land to the tribal raiyats or their successors in interest under the provision of Section 46 (4 A) Clause (III) of the CNT Act.

21. In the counter affidavit filed on behalf of the respondent nos. 1 to 4, it has been stated that the lands of Khata No. 189 Plot No. 1121, area 0.15 acres and Plot no. 1122 area 0.33 acres total area 0.48 acres are recorded in the name of Meso Oraon son of Chamra Oraon and Dhiru Oraon son of Chamra Oraon in the Revisional survey record of rights and thus the lands are tribal land. Ram Oraon son of Late Moso Oraon, Chamar Oraon, Somra Oraon and Gogo Oraon sons of Biru Oraon were granted permission to transfer the land of Khata No. 189, Plot No. 1121 and 1122 measuring an area of 1.15 acres and 0.33 acres respectively in favour of respondent no. 5 for a consideration amount vide order dated 27.12.1991 in Misc. Case No. 19/1987-88 by the Deputy Commissioner, Ranchi.

22. On the ground that conditions on which the permission for transfer of the land in question were violated, recommendations were made for annulment of

the transfer of the land.

W. P. (C) No. 5887 of 2003:

I. A. No. 8893 of 2013:

23. This interlocutory application has been preferred for the amendment in the prayer made in the original writ application in view of the subsequent development by virtue of which the Circle Officer, Town, Ranchi had issued notice dated 04.09.2013 directing the petitioners to remove their possession from the land by 19.09.2013 failing which the petitioners shall be dispossessed from the land and respondent no. 6 will be handed over possession.

24. Since the prayer made in the instant application has a direct nexus with the prayer made in the main writ application, the same is allowed.

25. Let I.A. No. 8893 of 2013 be treated as a part of the main application.

26. In this writ application (W.P.C. No. 5887 of 2003), the petitioner has prayed for quashing of the order dated 30.04.2003 passed by the respondent no. 2 in Misc. Case No. 6/01-02 by which the respondent no. 2 has set aside the order dated 30.06.1987 passed by the respondent no. 4 granting permission for transfer of land in terms of Section 49 of the CNT Act in favour of the respondent no. 5.

27. By virtue of I. A. No. 8893 of 2013 having been allowed by this Court, the petitioners have also challenged the notice dated 04.09.2013 issued by the Circle Officer, Town, Ranchi in which the petitioners were directed to remove their possession from the land by 19.09.2013 failing which they shall be dispossessed and respondent no. 6 will be handed over possession.

28. The factual aspects of the case reveal that the lands measuring an area of 0.92 acres situated at plot no. 1757 under R. S. Khata No. 226 at village Argora was recorded in the name of Sanicharwa Oraon who died leaving behind his three sons namely, Ganga Oraon, Baula Oraon and Champa Oraon. Baula Oraon and Champa Oraon died issueless and thus Ganga Oraon inherited the entire land as stated above.

29. The said Ganga Oraon filed an application under Section 49 of the CNT Act being Misc. Case No. 6/1985 before the Deputy Commissioner, Ranchi who vide order dated 30.06.1987 granted permission for transfer of land to the Society subject to the condition that the transferee must deposit 50% of the sale price in the shape of National Saving Certificate in the name of the transferor and the remaining 50% should be deposited in the savings bank account after deduction of advance, if any.

30. After necessary verification regarding, compliance of the conditions as enumerated in the order dated 30.06.1987, the sale deed was executed in favour of the respondent no. 5 - Society which was registered on 19.02.1988. Thereafter, the plot was divided into sub-plots and registered deeds of sale were

executed in favour of the members of the Society including the petitioners. After purchase the lands were duly mutated and rents were being paid to the State.

31. The petitioners after a prolonged period had come to know about the order dated 30.04.2003 passed by the respondent no. 2 by which the order of Deputy Commissioner, Ranchi dated 30.06.1987 was set aside.

32. In the counter affidavit filed on behalf of the respondent nos. 2 & 3, it has been stated that the Deputy Commissioner, Ranchi had made recommendation for annulment of the transfer of the land in question, since the conditions for which permission for transfer of the land was granted was violated.

W. P. (C) No. 4727 of 2003:

33. In this writ application, challenge has been made to the order dated 30.04.2003 passed by the respondent no. 2 in Misc. Case No. 6/2001-02 by which the respondent no. 2 had set aside the order dated 30.06.1987 passed by the Deputy Commissioner, Ranchi in which consent for transfer of the land was granted in favour of the respondent no. 5 - Society under Section 49 of the CNT Act. The petitioners have further prayed for quashing of the notice dated 04.09.2013 issued by the Circle Officer, Town Ranchi by which the petitioners have been directed to vacate the land from their possession, otherwise the petitioners shall be dispossessed and possession of the land shall be given to Puran Oraon.

34. In this writ application, the facts as stated reveal that the lands comprised within Plot No. 1757 under R. S. Khata No. 226 measuring an area of 0.92 acres of village Argora was recorded in the name of Sanicharwa Oraon son of Kandra Oraon. The said recorded tenant died leaving behind three sons namely Gahna Oraon, Baula Oraon, Champa Oraon. Baula Oraon and Champa Oraon died issueless and thus Gahna Oraon inherited the entire lands of Plot No. 1757.

35. Gahna Oraon had filed an application under Section 49 of the CNT Act being Misc. Case No. 6/1985 before the Deputy Commissioner, Ranchi praying for grant of permission to transfer the lands in question in favour of the Co-operative Society (respondent no. 5) for the purpose of Co-operative Housing Scheme. The Deputy Commissioner, Ranchi vide order dated 30.06.1987 granted consent for transfer of the land of Plot No. 1757 measuring 92 decimals in favour of the respondent no. 5 - Society and permitted registration of the sale deed on the condition that the transferee must deposit 50% of the sale price in the shape of National Saving Certificate in the name of the transferor and the remaining 50% shall be deposited in the saving bank account after deducting the advance, if any.

In terms of the order dated 30.06.1987, the recorded tenant Gahna Oraon had received a total amount of Rs. 1,10,400/- and thereafter made an application for registration of the land in question with the said Society.

36. It has been stated that after necessary verification, the sale deed executed by Gahna Oraon in favour of respondent no. 5 - Society was registered on

19.02.1988. The plot was accordingly divided into sub-plots and the petitioners being the bona-fide members of the Society had purchased various sub-plots and the sale deeds were registered on various dates. After purchase the lands were mutated in the name of the petitioners and they are paying rent to the State and are also being granted rent receipts.

37. The petitioners in August 2003 came to know that the consent granted for transfer of the land in favour of the respondent no. 5 - Society has been cancelled and on inquiry the petitioners could come to know about the order dated 30.04.2003 passed by the respondent no. 2 in Misc. Case No. 6/2001-02.

38. In the counter affidavit filed on behalf of the respondent nos. 1 to 3, similar assertions has been made as has been stated in W.P.(C) No. 5090 of 2003.

39. Since the factual aspects of the cases have been stated above, the arguments advanced by the learned counsel for the respective parties are being noted.

40. It has been stated by Mr. Jai Prakash Jha, learned senior counsel appearing for the petitioners in W.P.(C) No. 5090 of 2003, W.P.(C) No. 5227 of 2003 and W.P.(C) No. 5238 of 2003 that the petitioners are the members of the Co-operative Society and the transfer made in terms of Section 49 of the CNT Act in favour of the Co-operative Society was absolutely legal and valid. It has further been stated that the individual members of the Society including the petitioners were never noticed or heard. The petitioners being the necessary party to the proceedings were ignored and instead notice was sent to the Co-operative Society which had already transferred the land in favour of the individual members of the Society. Mr. Jha, further submits that the order passed by the respondent no. 2 is without jurisdiction as he does not have the power to decide such issue. It has further been submitted that in terms of Section 49 (5) of the CNT Act, the transfer could not have been annulled after the expiry of 12 years.

41. Mr. Jha concludes his argument by stating that the petitioners have built their residential houses and on account of the impugned orders which are wholly without jurisdiction, the petitioners will be deprived of their home and hearth.

42. Mr. Anil Kumar, learned senior counsel for the petitioner in W.P.(C) No. 4727 of 2003 and W.P.(C) No. 5887 of 2003 has stated that sale deeds were executed by the Society in favour of the purchasers, but notice was issued to the Society in the proceedings before respondent no. 2 and not to its members and therefore the impugned order dated 30.04.2003 in each of the writ applications suffers from the vice of the petitioners remaining unheard. Learned senior counsel has reiterated the submission of Mr. J. P. Jha by stating that the order dated 30.04.2003 was passed beyond the mandatory period of 12 years which is contrary to the provisions of Section 49 (5) of CNT Act. Mr. Anil Kumar, senior counsel has also questioned the authority of the respondent no. 2 by stating that he is not a government to come within the purview of Section 49 (5) of CNT Act clothed with the power to set aside an order of consent and transfer by the

Deputy Commissioner.

43. Mr. Sarju Prasad, learned counsel appearing for the respondent no. 5 had basically adopted the argument advanced by the learned senior counsel for the petitioners in each of the writ applications.

44. Mr. Ashish Thakur, learned A.C. to S.C. (L & C) has stated that notices were issued through local newspaper and therefore, the petitioners were aware about the proceedings and as such it cannot be said that the principles of natural justice were not followed.

45. Mr. Manoj Tandon, learned counsel for the intervenor - respondent no. 6 in W.P.(C) No. 5090 of 2003 and 4727 of 2003 has referred to the unamended provisions of Section 49 of CNT Act and has stated that consent to transfer granted by the Deputy Commissioner was itself against the said provisions as Section 49 (2) (b) of the Act reveals transfer in case of use of land for any charitable, religious or educational purpose or manufacture or irrigation or as building ground for any such purpose. Mr. Tandon submits that the respondent no. 6 is an occupancy raiyat and the transfer was not in the teeth of Section 48 of the CNT Act. It has further been argued that under the Rules of Executive Business minister is the government and therefore, the respondent no. 2 had full authority to pass the impugned order dated 30.04.2003 which was in consonance with Section 49 (5) of the CNT Act. Learned counsel submits that in the background facts and circumstances of the case, the question of limitation does not arise. He has concluded by submitting that an illegality would be committed, if the impugned orders are set aside.

46. On consideration of the arguments advanced by the learned counsel for the respective parties and on going through the records of each of the writ petitioners, it appears that the impugned orders dated 30.04.2003 in their content and purport are virtually same and similar. It is to be seen as to whether such orders are legally tenable or not. Both the learned senior counsels have raised an issue of jurisdiction of the respondent no. 2 and Mr. Anil Kumar, learned senior counsel has concisely stated that the respondent no. 2 being the departmental minister was not the State Government in terms of Section 49 (5) of the CNT Act to have annulled the transfer. Mr. Manoj Tandon, learned counsel appearing for the respondent no. 6 in W.P.(C) No. 5090 of 2003 and W.P.(C) No. 4727 of 2003 has contradicted such submission by referring to the Rules of Executive Business.

47. Although, learned senior counsel for the petitioners have not much elaborated such contentions, but since such issue has been raised which touches the very foundation of the impugned orders, the same is being accordingly considered.

48. The Rules of Executive Business flows from Article 166 of the Constitution of India. The Rules of Executive Business lays down the manner and mode of as also the authorities empowered to pass an order on behalf of the State

Government. The functions of the State are discharged by the ministers and officers especially empowered. Part III of the Rules of Executive Business governing, the State of Jharkhand deals with departmental disposal of business. Rule 21 provides that cases shall ordinarily be disposed of by or under the authority of the minister incharge.

49. In this context, reference may be made to the case of "Gullapalli Nageswara Rao and others Vs. A. P. State Road Transport Corporation and another" reported in AIR 1959 SC 308.

50. The petitioners of the said case have prayed for enforcement of their fundamental rights to carry on the business of Motor transport in Krishna district in Andhra Pradesh and for prohibiting the respondents from taking over the routes on which the petitioners have been applying their State carriages. Amongst other grounds, the petitioners had raised the issue of jurisdiction and questioned as to whether the State government disposed of the objections of the petitioners judicially in the manner prescribed by the Act. According to them under the Act and the rules framed thereunder the State government should hear the dispute, but it was the Secretary incharge of the Transport Department who was not the State Government had given the hearing. The effect of the business rules governing the State of Andhra Pradesh was considered and was concluded in the following passage.

26. "After the formation of the Andhra State on 3rd October 1953, the rules made by the Governor of Madras, under the provisions of the State Reorganisation Act, continue to be the ruled of the Andhra State till they are amended in accordance with such law. The Governor of Andhra State, in exercise of the powers conferred by cls. (2) and (3) of Art. 166 of the Constitution, directed that until other provisions are made in this regard, the business of the Government of Andhra be transacted in accordance with the Madras Government Business Rules and Secretariat Instructions in force on the first day of October, 1953. On October 26, 1956, after the formation of the Andhra Pradesh State, as the Andhra Pradesh was not a new State but a continuation of the Andhra State, though there is change in its name, the business rules of the Andhra State continue to govern the Secretariat of the Andhra Pradesh Government. The effect of the aforesaid provisions may be stated thus: A State Government means the Governor; the executive power of the State vests in the Governor; it is exercised by him directly or by officers subordinate to him in accordance with the provisions of the Constitution; the Ministers headed by the Chief Minister advise him in the exercise of his functions; The Governor made rules enabling the Minister in charge of particular department to dispose of cases before him and also authorizing him, by means of standing orders, to give such directions as he thinks fit for the disposal of the cases in the department. Pursuant to the rule, the record discloses, the Chief Minister, who was in charge of Transport, had made an order directing the Secretary to Government, Home Department, to hear the objections filed against the scheme proposed by the State Transport

Authority.

27. The aforesaid machinery evolved by the rules for the disposal of the cases by the State Government has been followed in this case. The petitioners and others filed objections to the proposed scheme before the Secretary to the Government Transport Department. He gave a personal hearing to the parties some of them appeared in person and others by representatives; the entire material recorded by him was placed before the Chief Minister in charge of Transport, who made his order approving the scheme; and the order was issued in the name of the Governor, authenticated by the Secretary in charge of the Transport Department. It may, therefore, be said that the State Government, gave the hearing to the petitioners in the manner prescribed by the rules made by the Governor."

51. Adverting back to the present case, the impugned orders were passed by the respondent no. 2 who was the Minister, Revenue and Land Reforms, Government of Jharkhand. Section 49 (5) of the CNT Act empowers the State Government either on its own motion or on an application made to it in this behalf to set aside the written consent and annul the transfer. The proceeding under Section 49 (5) of the CNT Act was initiated on the recommendations of the Deputy Commissioner vide letters numbers 179 (1) dated 21.11.1996 and letter no. 5 (1) dated 17.01.1997.

52. The Rules of Executive Business governing, the State of Jharkhand enjoins the Minister incharge for departmental disposal of cases. The same would also imply quasi-judicial acts performed by him. The procedural rules made by the Governor for the convenient transaction of the business of the State Government apply also to the quasi-judicial acts (See AIR 1959 SC 308). The act of the respondent no. 2 will remain the act of the State government. Thus, the respondent no. 2 was within his jurisdiction to pass the impugned orders in terms of Section 49 (5) of the CNT Act and therefore, the question of jurisdiction raised by the learned senior counsels for the petitioners does not have any legs to stand and accordingly such contention is hereby rejected.

53. Another issue which has been raised by the petitioners is the violation of the principles of natural justice. Section 49 (5) of the CNT Act gives powers to the State Government to set aside the written consent and annul the transfer, but such act has been clothed with various safeguards. The annulment can be made within 12 years from the date on which written consent is given by the Deputy Commissioner, if the consent which has been obtained is in contravention to sub-section (1) and (2) by misrepresentation or fraud. The other pre-conditions of annulment are of holding an inquiry and giving reasonable opportunities to the parties concerned to be heard. It is not in dispute that Lieven's Co-operative Society (respondent no. 5) was made a party in the proceeding under Section 49 (5) of the CNT Act which had also appeared through its representative, but no show-cause was filed. In the counter affidavit filed by the State, reference has been made to a general notice published in the local newspaper 'Prabhat Khabar'. The said notice was also brought on record which however does not indicate the

names of the petitioners, rather the same is also confined to the respondent no. 5. No doubt, it is true that the Deputy Commissioner, Ranchi vide separate orders had given written consent to transfer the lands in question to the society (respondent no. 5) but consequent to such consent the lands were divided into sub-plots and the petitioners were also some of the purchasers. It also does not appear from the impugned orders dated 30.04.2003 that the respondent no. 2 was not aware about the subsequent transfer of the land to the members of the Co-operative Society. The members including the petitioners would surely feel deprived from being given reasonable opportunity of hearing in the teeth of the provisions of Section 49 (5) of the CNT Act. The role of the respondent no. 5 also does not appear to be above board. It entered appearance on being noticed, but did not file any show-cause nor did it subsequently appear. The act of the respondent no. 5 also left the petitioners stranded being sheared of getting whatever opportunity of hearing before the respondent no. 2. Moreover, it appears that the respondent no. 2 had accepted the contentions of the complainant as a gospel truth without venturing into the conditions enumerated in Section 49 (5) of the CNT Act including the period of limitation.

54. In view of the discussions made hereinabove it is abundantly clear that the petitioners were not given an opportunity of hearing by the respondent no. 2 and accordingly the impugned orders dated 30.04.2003 becomes unsustainable in the eye of law and such orders passed in Case No. 5/Aadi-Misc. Case No. 7/2001-02, Case No. 5/Aadi-Misc. Case No. 8/2001-02, Case No. 5/Aadi-Misc. Case No. 19/2001-02, Case No. 5/Aadi-Misc. Case No. 6/2001-02 and Case No. 5/Aadi-Misc. Case No. 6/2001-02 which pertains to W.P.(C) No. 5090 of 2003, W.P.(C) No. 5227 of 2003, W.P.(C) No. 5238 of 2003, W.P.(C) No. 5887 of 2003, W.P.(C) No. 4727 of 2003 respectively are hereby quashed and set aside and the matter is remanded back to the respondent no. 2 for passing a fresh order in accordance with law after giving an opportunity of hearing to all the necessary parties to the proceedings. Consequent to the quashment of impugned orders dated 30.04.2003, the notice dated 04.09.2013 issued by the Circle Officer, Town Ranchi which are also the subject matter of challenge in W.P.(C) No. 5887 of 2003 and W.P.(C) No. 4727 of 2003 are also hereby quashed and set aside.

55. All these writ applications are allowed. Pending I.As, if any also stand disposed of.