
(2023) 08 JH CK 0016

In the Jharkhand High Court

Case No : Writ Petition (C) No. 4288 Of 2023

Bharat Arogya & Gyan Mandir

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 08-08-2023

Acts Referred:

Citation : (2023) 08 JH CK 0016

Hon'ble Judges : Rongon Mukhopadhyay, J

Bench : Single Bench

Advocate : Kumar Harsh, Sanjay Kr. Tiwari

Final Decision : Disposed Of

Judgement

Rongon Mukhopadhyay, J

1. Heard Mr. Kumar Harsh, learned counsel for the petitioner and Mr. Sanjay Kr. Tiwari, learned SC-I, for the respondent-State.

In this writ application, the petitioner has prayed for a direction upon the respondent no. 2 to dispose of S.A.R. Appeal No. 16/2023. The petitioner has further prayed that during the pendency of S.A.R. Appeal No. 16/2023, operation of the order dated 28.11.2022 passed by the respondent no. 3 and the notice dated 18.07.2023 passed by the respondent no. 4 directing upon the petitioner to remove the construction and vacate the premises, otherwise coercive action shall be taken against the petitioner be stayed.

In view of the order this Court intends to pass no notice is required to be issued to the respondent no. 5.

It has been submitted by the learned counsel for the petitioner that S.A.R. Case No. 714/2014-15 was disposed of on 28.11.2022 in favour of the respondent no. 5 against which the petitioner has preferred an appeal though belatedly but without considering the application for condonation of delay and disposing of the appeal notice has been issued to the petitioner directing him to remove the

construction and vacate the premises.

Learned SC-I, for the respondent-State has opposed the prayer made by the writ petitioner in this application.

The respondent no. 5 had filed an application u/s 71A of the Chotanagpur Tenancy Act before the respondent no. 3 being S.A.R. Case No. 714/2014-15 which was allowed vide order dated 28.11.2022 and which is the subject matter of S.A.R. Appeal No. 16/2023 filed before the respondent no. 2 by the petitioner.

It is the grievance of the petitioner that though the appeal is pending but in the meantime notice has been issued to the petitioner to vacate the premises and remove the construction on the disputed site. Since an appeal has already been preferred though belatedly but the matter has to be considered by the respondent no. 2 at the first instance including the application for condonation of delay.

In view of the fact that the appeal is pending before the respondent no. 2, this writ application stands disposed of with a direction to the respondent no. 2 to consider the appeal so filed along with the condonation application preferred by the petitioner and dispose of the same within a period of three months from the date of receipt / production of a copy of this order.

Till the time the appeal is disposed of, the notice dated 18.07.2023 issued by the respondent no. 4, shall be kept in abeyance.

This writ application stands disposed of.

Let this order be communicated through 'FAX' to the concerned respondents.