
(2017) 03 JH CK 0025
In the Jharkhand High Court
Case No : W.P. (C) No. 4703 of 2005

Chandra Nath Sahu

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 02-03-2017

Acts Referred:

Chotanagpur Tenancy Act, 1908 — Section 71-A

Citation : (2017) 2 AIRJharR 295 : (2017) 2 JBCJ 265

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Sambit Nayak, Advocate, for the Petitioner; J.C to S.C (L&C), for the Respondent

Final Decision : Dismissed

Judgement

Mr. Aparesh Kumar Singh, J.— Heard learned counsel for the petitioners and State.

2. In the proceeding initiated by respondent no. 4 for restoration of land under Section 71A of Chhota Nagpur Tenancy Act, S.A.R Case no. 23 to 27 of 1998 were decided by a common order dated 4th February, 2000 against each of these petitioners ex parte finding nonappearance on their behalf despite notice. These petitioners vainly prosecuted S.A.R Appeal no. 134 of 2000, which, however, stood dismissed on account of long absence on the part of the appellants, by the order dated 14th October, 2004, impugned as part of Annexure-3. Piece of land is comprised in Plot no. 306, Khata no. 146 in respect whereof illegal dispossession has been alleged by respondent no. 4.

3. Counsel for the petitioners submits that there was no service of notice upon the petitioners leading to S.A.R Cases being decided ex parte. He, however, is not in a position to explain nonappearance for number of dates by the appellants in S.A.R Appeals. Apart from that, he has placed the order passed in S.A.R Case no. 363/2005-06 initiated by the same respondent no. 4 against twelve persons

including petitioner no. 3 for restoration of land in the same plot no. 306 under Khata no. 146 comprising 0.92 acres. It is submitted that S.A.R Officer, Ranchi by order dated 1st October, 2009 found the application not maintainable on the grounds of delay in filing the same after 57 years. However, since petitioner no. 3 had approached this Court in the present writ petition, no order was passed in the case of present petitioner no. 3, but the application for restoration as against eleven persons were rejected. It is submitted that respondent no. 4 has been filing indiscriminate cases one after the other in respect of same plot and khata number against several such persons. The same S.A.R Officer has disbelieved the claim of respondent no. 4 in S.A.R Case no. 363/2005-06 on the same plot no. 306, Khata no. 146, whereas due to absence of proper notice, petitioners could not plead their cases in S.A.R Case nos. 2327 of 1998 which stood decided ex parte against them unfortunately. Therefore, interference is required in the impugned order.

4. Counsel for Respondent-State has defended the impugned order and also relied upon contents of counter affidavit. In essence, conduct of the petitioner in failing to respond to show cause notice in S.A.R Cases and also to prosecute the appeal before learned Deputy Commissioner, Ranchi, has been emphasized to show that petitioners have not been diligent in prosecuting their cases before Inferior Authority. Petitioners have also not exhausted revisional remedy before the competent authority. Though the respondent no. 4 has appeared on notice through their counsel, but there is no representation on their behalf today.

5. I have considered the submission of counsel for parties and gone through the impugned orders on record. It appears that the matter requires reconsideration by respondent no. 2, Special Officer Schedule Area Regulation, Ranchi in view of the conspicuous facts being brought on record in relation to S.A.R Case no. 363/2005-06 referred to herein above. S.A.R Court while rejecting the application for restoration in respect of same plot no. 306, Khata no. 146 initiated by same respondent no. 4 in respect of eleven other persons has however passed no order in respect of case of the petitioner no. 3 being guided by pendency of the instant writ petition. Therefore, fresh consideration of the case of present petitioner is required by respondent no. 2 in accordance with law, so that not only the petitioners are allowed opportunity to place their defence but the orders passed in related matters be also taken into account by S.A.R Court before arriving at a final determination on the plea of respondent no. 4 for restoration of piece of land.

6. Accordingly, the impugned orders are set aside. Matter is remanded to respondent no. 2 for reconsideration after giving opportunity to the parties. It goes without saying that petitioners shall not take any unnecessary adjournments and cooperate in the proceedings before learned Trial Court.