
(2019) 12 JH CK 0027

In the Jharkhand High Court

Case No : Writ Petition (c) No. 2195 Of 2014

Chandra Shekhar Prasad And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 18-12-2019

Acts Referred:

Bihar Tenants Holding (Maintenance Of Records) Act, 1973 — Section 15

Citation : (2019) 12 JH CK 0027

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Amar Kumar Sinha, Sumit Kumar, Avish Narayan, Nikhil Ranjan, Sunil Singh

Final Decision : Allowed

Judgement

1. Heard Mr. Amar Kumar Sinha, the learned counsel appearing for the petitioners, Mr. Avish Narayan, the learned counsel for the respondent no.6, Mr. Nikhil Ranjan, the learned counsel appearing on behalf of the respondent no.8 and Mr. Sunil Singh, the learned A.C to S.C (Mines) appearing on behalf of the respondent-State.

2. The petitioner has preferred this writ petition for quashing the order dated 28.02.2014 passed by learned Additional Collector, Lohardaga as contained in Annexure-5 to this writ petition.

3. Mr. Sinha, the learned counsel appearing for the petitioners submits that the land measuring 9.23 acres comprised with R.S. Plot Nos. 348, 349, 350 and 351 of Khata No.27, situated at Village Ekkaguri, P.S. Senha, District -Lohardaga were recorded in the name of Chunni Lal Sahu, son of Ramdhan Sahu during the last survey settlement record of rights. The Khatian is annexed as Annexure-1 to the writ petition. He further submits that the recorded tenant Chunni Lal SAhu remained in possession over the lands and on the eve of vesting he was recognized as a raiyat by the State and rent receipts were duly issued by the

revenue authorities. Some of the rent receipts have already been annexed to the Annexure-C to the writ petition. It is submitted that the respondent no.6 claiming the aforementioned lands on the basis of the deed of gift alleged to have been executed by Jag Mohan Lal Gupta filed Mutation Case No.07 of 1967-68 before the Circle Officer, Senha and the Circle Officer after considering the materials on record and finding that the factum of possession and semblance of title rejected the same by terms of order dated 22.04.1968. The said order is made Annexure-3 to the writ petition. He further submits that the said respondent no.6 after lapse of about 43 years suppressing the real fact about the earlier order of Circle Officer filed the Mutation Case No.446 of 2012-13 which was rejected against that he has preferred the Mutation Appeal No.1 of 2013-14 before the Additional Collector, Lohardaga. He submits that the Additional Collector, Lohardaga has got no authority to hear the appeal under section 15 of the Bihar Tenants Holding (Maintenance of Records) Act, 1973 wherein section 15 the power is vested with Deputy Collector (Land and Revenue) DCLR. He submits that the order is without jurisdiction.

4. The learned counsel appearing for the respondents are in fix and they have not been able to suggest anything contrary to the arguments raised by Mr. Sinha, the learned counsel for the petitioners with regard to jurisdiction of the Additional Collector. It is crystal clear from the section 15 of the said Act that the DCLR is a competent authority to decide any appeal arising out of mutation case.

5. In view of the above submission and considering the admitted position that the Additional Collector has got no jurisdiction to decide the appeal, the impugned order contained in Annexure-5 date 28.02.2014 cannot sustain in the eye of law.

6. Accordingly, the order dated 28.02.2014 is quashed.

7. The writ petition being W.P.(C) No.2195 of 2014 stands allowed and disposed of.