

(2003) 04 JH CK 0105
In the Jharkhand High Court
Case No : C.W.J.C. No. 1459 of 1993 (R)

Dalia Devi and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 07-04-2003

Acts Referred:

Citation : (2003) 2 JCR 690

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : L.K. Lal, for the Appellant; G.P. II, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard Mr. L.K. Lal, learned counsel for the petitioners and the learned G.P.II.

2. In this writ application petitioners have prayed for quashing the order dated 29.1.93 passed by respondent No. 2 Circle Officer, Jamua in the district of Giridih in Basgit Parcha Case No. 3 of 1992-93 by which he has ordered to prepare a Basgit Parcha in the name of respondent No. 3.

3. Petitioners' case is that the land lord of village Bolodih settled 43 decimals of land of plot No. 540.83 decimals of land of plot No. 447 of Khata No. 42 with the petitioner and his brother Sukar Kumhar and put them in possession of the same. After settlement, petitioner has been paying rent to the State of Bihar. Petitioners alleged to have constructed a house over a portion of the said land residing therein. It is contended that respondent No. 3 who is distant relation of the petitioner applied before the Circle Officer for settlement of 12 decimals of land out of plot No. 958 of Khata No. 42 situated at village Golodih which was registered as Basgit Parcha case No. 3/92-93. It is contended that without issuing notice and without giving opportunity of hearing to the petitioner Basgit Parcha was issued in favour of respondent No. 3 with respect to decimals of land of plot No. 958.

4. Respondent No. 3 filed his counter affidavit, in which it is stated that Basgit Parcha was issued in his favour after completing all the procedure provided under Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1989 and notice of the proceeding was served upon all the persons including petitioners.

5. From perusal of the impugned order passed by the Circle Officer which has been annexed as Annexure-4 to the writ application, it appears that on the application made by respondent No. 3 for issuance of Basgit Parcha in respect of 12 decimals of land of plot No. 958, a proceeding was initiated by the Circle Officer and general notice was issued. After service of notice the Circle Officer decided the proceeding and issued Basgit Parcha in respect of 0.8 decimals of land of plot No. 958.

6. As noticed above, the Basgit Parcha was issued in favour of respondent No. 3 in respect of 0.8 decimal of land of plot No. 958 under Khata No. 42. A copy of the Basgit Parcha has been annexed as Annexure-4/A to the writ application. In para 5 of the writ petition, it is stated by the petitioner that the land of plot No, 540 and plot No. 447 of Khata No. 42 was orally settled with them and the said land falls into the share of the petitioners. In para 8 of the writ petition it is stated that respondent No. 3 applied for issuance of Basgit Parcha in respect of 12 decimals of land of plot No. 958 of Khata No. 42. Nothing has been stated as to how petitioner claims title over the land of plot No. 958 nor anything has been stated as to in whose name land was recorded in the revenue record of right.

7. On the other hand from the impugned order, it appears that land of plot No. 958 stands recorded as Gair Mazarua Mallk. From perusal of Annexure-3, which is service report of general notice, it appears that several persons of the village put their signature in the service report. It can therefore be held that petitioners were not noticed or any opportunity of hearing was given to them.

8. Be that as it may, neither the appellant prima facie proved his title or possession over the land of plot No. 958 nor in any way he has got interest in the said land. In that view of the matter, I do not find any infirmity or Illegality in the order passed by the Circle officer allowing Basgit Parcha in favour of respondent No. 3. The impugned order needs no interference. This writ application is dismissed.