
(2008) 02 JH CK 0139
In the Jharkhand High Court

Deodahri Dhobi and Others	Vs	APPELLANT
State of Jharkhand and Others		RESPONDENT

Date of Decision : 29-02-2008

Acts Referred:

Citation : (2008) 3 JCR 115

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

N.N. Tiwari, J.—In this writ petition, the petitioners have prayed for quashing the order dated 11th June, 2007 passed by the learned Commissioner, North Chhotanagpur Division, Hazaribagh in Revenue Case No. 63 of 2004, whereby the learned Commissioner has dismissed the revision upholding the appellate order passed by the Additional Collector, Hazaribagh in Appeal No. MAN-44/2003 dated 14th July, 2004.

2. It has been stated that the petitioners have claimed right, title and possession over the land appertaining to Khata No. 11, Plot No. 135, Area 1.98 Acres and Plot No. 161, Area 1.29 Acres; total area 3.27 Acres of village Basrai, P.S. Barhi, District Hazaribagh, on the basis of settlement made by the ex-landlord. It has been stated that the recorded tenant, Tipan Hazam, son of Karu Hazam, had surrendered the said land to the ex-landlord, Raja Surendra Nath Karandeo, in the year 1930. Thereafter, the ex-landlord settled the said land in 1939. On the basis thereof, the petitioners had prayed for mutation of their names in respect of the said land.

3. The Land Reforms Deputy Collector, Hazaribagh recommended for mutation of their names and the same was approved by the Sub Divisional Officer, Barhi by his order dated 16th December, 2003. But on appeal, the said order was set aside by the learned Additional Collector, Hazaribagh on the ground that the land was recorded in the name of Tipan Hazam and there was no iota of evidence to

show raiyati right of the recorded tenant. Since the land was recorded as raiyati and in absence of valid surrender, any settlement of the said land is not valid and legal. The Additional Collector thus set aside the order of the learned Sub Divisional Officer.

4. The petitioners, thereafter, filed revision before the learned Commissioner, North Chhotanagpur Division, Ranchi. Learned Commissioner has also taken the similar view, upheld the order of the Additional Collector and dismissed the petitioners' revision.

5. It has been stated that the petitioners have been in possession of the land and the same was also found by the revenue authority. On that basis recommendation was made for mutation in their favour. Learned Additional Collector as well as the Commissioner have committed serious error in ignoring the same and dismissing the petitioners' claim.

6. Learned J.C. to S.C. (L&C), appearing on behalf of the State respondents, on the other hand, submitted that the appellate authority as well as revisional authority have thoroughly considered the relevant facts and materials on record and have found that there was no iota of evidence of surrendering the raiyati land by the recorded tenant and in absence thereof, any settlement made in respect of the said land cannot confer any right or title to the petitioners. On the basis of the settlement without any proof of surrender of the said land by recorded tenant, the petitioners' name cannot be mutated/entered into the revenue record. The impugned orders are well considered and there is no infirmity in the impugned orders.

7. I have heard learned Counsel for the parties and considered the facts and materials brought on record. On going through the impugned orders, I find that the appellate authority as well as revisional authority, both, have thoroughly considered all aspects and have come to the concurrent finding that there was no evidence of surrender by the recorded tenant and any settlement made without such surrender cannot be held to be legal and cannot confer any valid title.

8. In view of the above, the said authorities have refused to uphold the petitioners' claim. The impugned orders are well discussed and thoroughly considered. I find no infirmity or illegality in the impugned orders. So far as the dispute regarding title and possession of the petitioner is concerned, the same cannot be adjudicated upon and decided in the writ jurisdiction of this Court.

9. I, therefore, find no legal ground to interfere With the impugned orders. This writ petition is, accordingly, dismissed. So far as the question of right, title and possession over the said land is concerned, the parties are at liberty to approach the appropriate forum.