
(2015) 06 TP CK 0042
In the Tripura High Court
Case No : Writ Appeal 4 of 2015

Dhaneswar Debbarma

APPELLANT

Vs

The State of Tripura and Others

RESPONDENT

Date of Decision : 15-06-2015

Acts Referred:

Citation : (2015) 06 TP CK 0042

Hon'ble Judges : Deepak Gupta, C.J.;S. Talapatra, J

Bench : Division Bench

Advocate : A. Bhowmik, for the Appellant; D.K. Biswas and B. Dutta, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Deepak Gupta, C.J.

1. This writ appeal is directed against the judgment dated 6.8.2014 passed by a learned single Judge of this Court allowing the writ petition being WP(C) No. 361 of 2007 filed by the petitioner (respondent No. 2 herein).

2. The undisputed facts are that the writ petitioner Krishna Mohan Das was allotted land recorded in Khatian No. 692 CS Plot No. 3983/4829 measuring 0.85 acres by the Collector under the Tripura Land Revenue and Land Reforms (Allotment of Land) Rules, 1980. This allotment was made in the year 1980. In 2004 a complaint was filed by the private respondent in the writ petition(appellant herein) claiming that the writ petitioner was not in possession of the land which had been allotted in his favour and claimed that he himself was in possession of the land. This complaint was filed before the Collector under the Tripura Land Revenue and Land Reforms Act, 1960 (TLR and LR Act). In the meantime, the writ petitioner filed Title Suit No. 2 of 2005 titled as Krishna Mohan Das v. Dhaneswar Debbarma and another in which he prayed for a decree declaring his title on the suit land and also prayed that the defendant Dhaneswar Debbarma be restrained from interfering in his possession in the suit land. Both

the parties led evidence and after contest the learned trial Court held that the plaintiff is entitled to the decree prayed for and decided the suit in favour of the plaintiff and the defendant himself and through his agents were permanently restrained from entering into the suit land except in accordance with law.

3. No appeal was filed against this decree but in the case filed before the Collector on 24.3.2007 the Collector passed an order cancelling the allotment. The allotment was cancelled on two grounds; (i) that though the land was allotted to Sri Krishna Mohan Das it was in the possession of Sri Dhaneswar Debbarma and (ii) since the land was in ADC area priority should be given to a tribal landless person and therefore, the allotment was cancelled.

4. As far as the first finding of the Collector is concerned, in the order dated 24.3.2007 other than making a reference to the submission of the counsel of Sri Dhaneswar Debbarma that his client is in possession of the land, no evidence whatsoever has been discussed. He has referred to some inquiry made by Dy. Collector, Dharmanagar. Admittedly, this inquiry has been conducted at the back of Sri Krishna Mohan Das and this is not an inquiry following the rules of natural justice. At best it was a preliminary fact finding inquiry and if the issue was who is in possession of the property the Collector should have given the parties opportunity to prove their cases. We are not going into the question raised by Mr. Biswas at this stage that Krishna Mohan Das were not served in the petition. Be that as it may, the fact of passing of the decree was brought to the notice of the Collector and thereafter the Collector passed an order that in respect of record of rights the Collector's order shall prevail. This is an undated order attached as Annexure 4 to the writ petition.

5. At the outset, we may notice that the land was allotted in favour of the writ petitioner in the year 1988. Assuming that there was any error in the allotment, such allotment should have been challenged within a reasonable time. Allotments cannot be set aside after expiry of reasonable period. What is a reasonable period may depend on the facts of a particular case but normally the reasonable period will not exceed 3 years at the most. It is only in cases where fraud is proved that the period of limitation will start from the date of discovery of the fraud. Otherwise within a reasonable period, proceedings to cancel allotment must start. A person who is allotted land develops the land by dint of his hand work. He invests money and time on the land. After he has developed the land the allotment cannot be set aside after two decades on the ground that the objector had a better claim to the land.

6. The finding of possession recorded by the Civil Court, in our view, could not be set to be naught by the Revenue Court. To this effect, the learned single Judge is absolutely correct. The civil Court after hearing both the parties has decided the matter. Both the parties were given opportunity to lead evidence and after recording evidence, the Civil Court came to the conclusion that the writ petitioner was in possession of the suit land. This decree of the Civil Court has to be challenged by filing an appeal before the District Judge and cannot be nullified by

a revenue officer.

7. The Civil Court had the jurisdiction to pass the decree. The Civil Court held that the plaintiff-petitioner was in possession of the land. This finding of the Civil Court could not be set aside by the Revenue Officer. Therefore, the learned single Judge rightly held that the writ petition should be allowed. We, accordingly, affirm the judgment passed by the learned single Judge and the appeal is dismissed.