

**(2019) 12 JH CK 0021**  
**In the Jharkhand High Court**  
**Case No : Writ Petition (c) No. 4811 of 2015**

Gandhuri Turi

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

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**Date of Decision :** 16-12-2019

**Acts Referred:**

**Citation :** (2019) 12 JH CK 0021

**Hon'ble Judges :** Sanjay Kumar Dwivedi, J

**Bench :** Single Bench

**Advocate :** Sandeep Verma, Shailendra Kumar Singh, Manoj Kumar

**Final Decision :** Allowed

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## Judgement

Heard Mr. Sandeep Verma, learned counsel appearing for the petitioner and Mr. Manoj Kumar No.3, learned S.C. (Mines)-II appearing for the respondent-State.

The petitioner has preferred this writ petition for quashing the order dated 14.05.2015 passed by respondent no.4 and order dated 04.06.2015 passed by respondent no.3 and respondent no.2 in Raiyati Manyata Record No. 12 of 2014-15 and also for directing respondent nos. 2, 3 and 4 to recognize that the petitioner has also raiyati right upon plot no. 486 of khata no. 49/161, area 0.11 acre, situated at Mouza- Isri, Thana No. 100 in the district of Giridih.

The case of the petitioner is that the land appertaining to plot no. 486 under khata no. 49/161, area 6.53 acres, situated at Mouza- Isri was recorded as Gairmajarua khas and was settled in the name of the petitioner's ancestor and after transfer of the land, the jamabandi was created in the name of the petitioner's ancestor at page no. 118, volume no.2 in Register-II and they were paying rent to the State and the State authority also used to issue rent receipts in their favour. In paragraph 5 of the writ petition, some of the rent receipt numbers and date of issuance of receipts are mentioned. Out of the aforesaid land, 2.46 acres of land was acquired for National Highway and as there was need to obtain raiyati right with respect to the said acquired land to enable the

petitioner for claiming compensation, the petitioner had applied for the same and record no. 3 of 2001-03 was registered by the Circle Officer, Dumri for inquiry. After inquiry by the Halka Karamchari, the Circle Officer, Dumri had recommended to the Land Reforms Deputy Collector, Giridih for giving raiyati right/manyata to the petitioner for the aforesaid plot in question. The Land Reforms Deputy Collector, Giridih had also recommended to the Sub-Divisional Officer, Giridih for giving raiyati right to the petitioner vide order dated 05.05.2003. The Sub-Divisional Officer, Giridih vide order dated 23.05.2003 also recommended for giving raiyati right to the petitioner and pursuant thereto the Deputy Commissioner, Giridih and Additional Collector, Giridih vide order dated 02.09.2003 had given raiyati right to the petitioner in Case no. 03 of 2001-02. The said order is annexed at Annexure-1 to this writ petition. The petitioner got the compensation of his acquired area of 2.46 acres of the said land. Thereafter, some of the land having an area of 0.11 acre has been again acquired for the same purpose and there was no need for again obtaining raiyati right upon 0.11 acres of land. However, the petitioner applied for obtaining raiyati right upon the 0.11 acres of land by Raiyati Manyata Record No. 12 of 2014-15. The Circle Officer, Dumri vide order dated 27.10.2014 recommended the same to the Land Reforms Deputy Collector, Giridih. The Land Reforms Deputy Collector, Giridih vide order dated 08.04.2015 recommended to the Sub-Divisional Officer, Dumri for further action. However, the Sub-Divisional Officer, Dumri vide order dated 14.05.2015 refused to grant raiyati right to the petitioner upon 0.11 acres of land. The Deputy Commissioner, Giridih and the Additional Collector, Giridih vide order dated 04.06.2015 have also refused to give raiyati right to the petitioner with respect to 0.11 acres of land of plot no. 486 of khata no. 49/161, Thana no. 100 situated at Mouza- Isri in the district of Giridih and also directed the Circle Officer, Dumri for cancellation of jamabandi. Aggrieved with these orders, the petitioner has filed this writ petition.

Learned counsel appearing for the petitioner submits that without providing any opportunity of hearing to the petitioner and without considering earlier proceeding with regard to the same land, wherein, permission was granted for giving raiyati right to the petitioner, respondent nos. 2, 3 and 4 have arbitrarily refused to grant raiyati right to the petitioner. He further submits that respondent nos. 2, 3 and 4 have exceeded their jurisdiction by directing the Circle Officer, Dumri for cancellation of jamabandi.

Per contra, Mr. Manoj Kumar No.3, learned S.C. (Mines)-II appearing on behalf of the respondent-State submits that there is no illegality in the order passed by the respondent authorities. He further submits that it transpires from the impugned order passed by the Deputy Commissioner, Giridih that there is no return by the ex-landlord and Register-II does not contain case number of any mutation proceeding and that is why the Deputy Commissioner, Giridih has rightly passed the order.

In view of the above facts and submission of the learned counsel appearing for

the parties, this Court finds that for the same land, which was acquired for the same purpose, raiyati right was earlier provided by the district administration and the petitioner was also paid compensation. The authorities have also again recommended for providing raiyati right to the petitioner, but respondent nos. 2, 3 and 4 have not granted the same to the petitioner for the reasons assigned in the impugned order. On perusal of the impugned order, it transpires that the said order was passed without providing any opportunity of hearing to the petitioner and recommendation for cancellation of jamabandi has also been extended, that too without providing any opportunity of hearing to the petitioner. The respondents have not considered the fact that in the earlier proceeding, raiyati right has been provided to the petitioner. Accordingly, the impugned orders cannot be sustained in the eyes of law. Therefore, the order dated 14.05.2015 passed by respondent no.4 and order dated 04.06.2015 passed by respondent no.3 and respondent no.2 in Raiyati Manyata Record No. 12 of 2014-15, contained in Annexure-2 series are, hereby, quashed. The matter is remitted back to the Deputy Commissioner, Giridih, who will pass an appropriate order after providing opportunity of hearing to the petitioner and considering the observations made in this order, within a period of six weeks from the date of receipt/production of a copy of this order.

Accordingly, the writ petition stands allowed and disposed of.