
(2020) 07 JH CK 0092

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1979 of 2020

Ganesh Burman @ Ganesh Poddar

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 29-07-2020

Acts Referred:

Bihar Bhoodan Yagna Act, 1954 — Section 14A

Citation : (2020) 07 JH CK 0092

Hon'ble Judges : Amitav K. Gupta, J

Bench : Single Bench

Advocate : Shresth Gautam, M.K.Dubey

Judgement

1. Learned counsel for the petitioner undertakes to remove the defects, as pointed out by the office, on resumption of normal functioning of Court.

2. It is submitted that on receipt of notice dated 24.12.2019 issued by the Circle Officer Fathepur, District- Jamtara, the petitioner had filed his reply

detailing the facts relating to his lawful possession of land of Plot No.208, Khata No.65, measuring 2.00 acres. It is argued that the Circle Officer

without giving an opportunity of hearing to the petitioner issued the notice, dated 17.01.2020, directing the petitioner to vacate the aforesaid plot of

land.

Learned counsel has submitted that the lands were given to the petitioner by Bihar Bhoodan Yagna Act, 1954 and the petitioner has paid the land rent

till 2015, as would be evident from the Annexure-3 series. The land was mutated in the name of the petitioner vide Annexure-2.

It is submitted that in Meghamala Vs. Narasimha Reddy; (2010) 8 SCC 383, it has been held by Hon'ble Supreme Court that the State authorities

cannot dispossess a person by executive order, and the government can resume possession only in a manner known to or recognized by law and not otherwise.

On the above ground it is submitted that the notice dated 24.12.2019 issued by the Circle Officer Fatehpur, District- Jamtara, deserves to be quashed.

3. Mr. M.K. Dubey, learned AC to AG has submitted that he shall file the counter affidavit after obtaining necessary information for the Circle

Officer, Fatehpur, as in the the writ petition it is stated that construction is being made by the State authorities. It is submitted that the instant writ

petition is not maintainable because the petitioner has efficacious remedy under Section 14A of the Bihar Bhoodan Yagna Act, 1954, to challenge the

order by filing an appeal before the appropriate authority.

4. Heard. Time as prayed for, is granted to the learned counsel for the State to file the counter affidavit. If no order has been passed on the reply filed

by the petitioner then the Circle Officer, shall pass a reasoned and speaking order after giving an opportunity of hearing to the petitioner who shall

appear before the Circle Officer, Fatehpur, within three weeks from the date of receipt/production of the order.

5. Let a copy of the order be communicated to the Circle Officer, Fatehpur, and to the learned AC to AG, for needful.

6. Office to list the matter on 21st August, 2020.