

(2020) 08 JH CK 0139
In the Jharkhand High Court
Case No : W.P. (C) No. 1979 of 2020

Ganesh Burman @ Ganesh Poddar

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 21-08-2020

Acts Referred:

Citation : (2020) 08 JH CK 0139

Hon'ble Judges : Rajesh Shankar, J

Bench : Single Bench

Advocate : Shresth Gautam, Gaurav Abhishek

Final Decision : Dismissed

Judgement

I. A. No. 4257/2020

By way of present interlocutory application, the petitioner has prayed for staying the operation of the impugned eviction notice as contained in memo No. 412 dated 09.07.2020 (Annexure-8 to the writ petition) and to restrain the respondents from carrying out the construction work over the land in question till disposal of the present writ petition.

Learned counsel for the petitioner submits that the present writ petition has been filed for quashing the notices as contained in memo No. 880 dated 24.12.2019, memo No. 34 dated 17.01.2020 and memo No. 412 dated 09.07.2020 (Annexures- 4, 6 & 8 respectively to the writ petition) whereby the petitioner has been directed to vacate the land appertaining to Khata No. 65, Plot No. 208, Mouza-Choukunda, P.O-TK Gram, P.S-Fatehpur, District-Jamtara, measuring an area of 2 Acres out of the total area of 28 Acres. Further prayer has been made for issuance of direction upon the respondents to stop the construction work being carried out over the said land.

Learned counsel for the petitioner submits that the petitioner's grandfather namely Jagdish Prasad Sah was granted the said land by the Bihar Bhoodan

Yagnya Committee under the provisions of the Bihar Bhoodan Yagnya Scheme and to that effect a donation certificate bearing No. 101831 dated 28.08.1957 was issued in the name of his grandfather. Soon thereafter, the grantee of the said land applied for mutation which was registered as Mutation Case No. 21/1962-63 and the Circle Officer, Kundahit allowed the same in his favour. Thereafter, necessary entries were made in the records of the State Government. Suddenly on 24.12.2019, the respondent No.2 issued an eviction notice directing the petitioner to vacate the said land within 15 days and to inform the said authority about the said vacation. Upon receipt of the said notice, the petitioner made a detailed representation before the respondent No.2 informing the background of the said land. Despite the said fact, the respondent No.2 issued second eviction notice dated 17.01.2020 again directing the petitioner to vacate the said land. Thereafter, in the month of March, 2020, the respondents started construction work over the said land. However, due to spread of Corona-19 pandemic and lockdown imposed by the Government, the construction work was stopped. Thereafter, the petitioner made a representation before the respondent No.3 on 30.06.2020 requesting inter alia to direct the respondent authorities to stop the construction work over the said land. Despite the said representation made by the petitioner before the respondent No.3, the respondent authorities again resumed construction over the said land on 02.07.2020 and thereafter again on 09.07.2020, the respondent No.2 issued third eviction notice vide memo No.412 dated 09.07.2020 to the petitioner directing him to vacate the said land within 10 days. Since the petitioner along with his family members have been in possession of the said land for more than 60 years, their eviction will cause them irreparable loss and injury and hence the operation of the impugned eviction notice as contained in memo No. 412 dated 09.07.2020 (Annexure-8 to the writ petition) may be stayed and the respondent authorities may be directed to stop the construction work being carried out over the said land.

Mr. Gaurav Abhishek, learned A.C to A.G, submits that the present writ petition was earlier taken up by a Bench of this Court on 29.07.2020. The argument of learned counsel for the petitioner was heard in detail as would be evident from the order dated 29.07.2020. After hearing learned counsel for the parties, the Court granted time to the respondents to file counter affidavit. However, no interim order was passed by the Court on the said date. Learned A.C to A.G further submits that he has already received the instruction from the respondents and he will be filing the counter affidavit soon. Since the case of the petitioner was heard in detail on 29.07.2020 and the Court thought it proper not to pass any interim order in this case, it would not be appropriate to pass any interim order in the present case particularly when the respondents are going to file the counter affidavit soon.

Heard learned counsel for the parties. On perusal of the record, it appears that the present case was heard in detail on 29.07.2020 by a Bench of this Court. Paragraph 2 of the order dated 29.07.2020 suggests that the argument of

learned counsel for the petitioner has duly been recorded and the learned A.C to A.G has been directed to file counter affidavit after obtaining necessary information from the respondent No.2. It has also been observed in the said order that if no order has been passed by the respondent No.2 on the reply submitted by the petitioner, the said authority shall pass a reasoned and speaking order after providing due opportunity of hearing to the petitioner, who in turn, has been directed to appear before the said authority within a period of three weeks from the date of receipt/production of a copy of the said order. It would thus be evident that though the case of the petitioner was duly appreciated by a Bench of this Court on 29.07.2020, yet no interim order was passed. Today learned A.C to A.G prays for a short adjournment for filing counter affidavit on behalf of the respondents as he has already received the instruction.

Considering the facts and circumstances of the case in totality, I am not inclined to grant any interim order as prayed for by the petitioner in the present interlocutory application.

The present interlocutory application is accordingly rejected.

W.P.(C) No. 1979 of 2020 Put up this case after one week under the appropriate heading. In the meantime, the respondents shall file their counter affidavits.