

(2008) 02 JH CK 0126
In the Jharkhand High Court

Gopi Nath Panda	Vs	APPELLANT
Central Coal Field Ltd. and Others		RESPONDENT

Date of Decision : 07-02-2008

Acts Referred:

Citation : (2008) 2 JCR 524

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Narendra Nath Tiwari, J.—In this writ petitioner has raised the dispute of right, title and possession over the land in question. The petitioner has claimed that he has got right, title and possession over the land at Khewat Nos. 2/3, 2/4 and 2/7 which was given in Khairat to the petitioner's ancestors and on the basis thereof they had been in continuous possession and there was inter se transactions of the portion of the said land. The said land was also the subject matter of Partition Suit No. 38/1951 and in the final decree the said land has been mentioned. It has been submitted that all these documents go to prove the petitioner's right, title and continuous possession. But the C.C.L. without any right aid title has been illegally mining over the petitioner's land. The petitioner has, thus, prayed for compensation for the said illegal and unauthorised mining over his land by the C.C.L.

2. The C.C.L has seriously contested the claim of right, title and possession of the petitioner. It has been stated that the respondents have been doing the mining work on the said land which were acquired for their purposes by the State and the claim of right, title and possession of the petitioner is wholly false and baseless. It has been further submitted that the said serious factual dispute regarding the right, title and possession cannot be adjudicated upon and decided in writ jurisdiction of this Court and this writ petition is not maintainable.

3. The State-respondents have also filed their counter-affidavit stating, inter alia,

that the said claim of the petitioner is wholly false and frivolous. His name does not find place in any of the Revenue register of the Raiyats maintained by the Revenue Department and there is no legal basis of the petitioner's claim.

4. I have heard learned Counsel for the parties and considered the submissions and materials brought on record. On going through the petitioner's claim, I find that he has claimed right, title and possession over the said land on the basis of some Khairat settlement in favour of his ancestors. However, no such document of settlement has been produced by the petitioner. The petitioner has claimed his continuous possession, but the said possession has been disputed by the respondents. There is no document on record to prima facie prove the petitioner's possession. The petitioner has relied on the inter se transactions by registered documents, but the same cannot by itself go to prove the petitioner's right, title and possession over the said land. The final decree passed in the partition suit in the year 1951 also cannot be an evidence to prove the petitioner's possession as on this date. In view of the said serious dispute of facts regarding the right, title and possession of the petitioner, this Court cannot grant relief to the petitioner prayed for in this writ petition. This writ petition is, accordingly, dismissed.

5. However, the petitioner is at liberty to approach the appropriate Forum or competent Court of civil jurisdiction for redressal of his grievance made in this writ petition.