
(2011) 02 JH CK 0052
In the Jharkhand High Court
Case No : Writ Petition (C) No. 3817 of 2003

Gumadi Soren

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 01-02-2011

Acts Referred:

Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949 — Section 53

Citation : (2011) 02 JH CK 0052

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Judgement

D.N. Patel, J.—I have learned Counsel for the Petitioner, who has argued out the case in much detail and has also placed heavy reliance upon the order passed by the Sub Divisional Officer, Sahebganj in R.P. Case No. 7 of 195455 (Annexure-6) and submitted that the order passed by the Sub Divisional Officer, Sahebganj was in favour of the present Petitioner and, thereafter, an application for ejection was preferred in the year 198081 by the present Petitioner on the basis of the order passed by the Sub Divisional Officer, Sahebganj dated 7th August, 1954 in R.P. Case No. 7 of 195455 and the same was decided in favour of the present Petitioner by the Sub Divisional Officer, Sahebganj vide order dated 26th November, 1981. Against this order, the appeal was preferred by Respondent No. The appeal was allowed in favour of Respondent No. 3 by the Deputy Commissioner, Sahebganj vide order dated 4th September, 1984 in Revenue Miscellaneous Appeal No. 29 of 198384. Against this order, the present Petitioner has preferred this writ petition.

2. Learned Counsel for the Petitioner further submitted that the order passed by the Deputy Commissioner, Sahebganj dated 4th September, 1984 in Revenue Miscellaneous Appeal No. 29 of 198384 deserves to be quashed and set aside mainly for the following facts and reasons:

(a) that the invalid transfer of land in the year 1951 was immediately objected by the present Petitioner u/s 53 of the Santhal Pargana Tenancy Act, 1949 and

the case was registered as R.P. Case No. 7 of 195455;

(b) an order was passed in favour of the present Petitioner by the Sub Divisional Officer, Sahebganj in R.P. Case No. 7 of 195455 vide order dated 7th August, 1954, whereby, the transfer of the land in favour of the predecessor of Respondent No. 3 was cancelled and the land was restored in favour of the Petitioner;

(c) the order passed by the Sub Divisional Officer, Sahebganj has never been challenged by the Respondents. Thus, the order passed by the Sub Divisional Officer, Sahebganj dated 7th August, 1954 in R.P. Case No. 7 of 195455 has attained its finality;

(d) on the basis of the order of Sub Divisional Officer, Sahebganj dated 7th August, 1954, an application for ejection was preferred in the year 198081 by the present Petitioner against Respondent No. 3 and the Sub Divisional Officer, Sahebganj vide order dated 26th November, 1981 has decided the case in favour of the present Petitioner, whereby, Respondent No. 3 was ordered to be ejected from the premises, in question;

(e) the aforesaid aspects were never considered by the Deputy Commissioner, Sahebganj while allowing the Revenue Miscellaneous Appeal No. 29 of 198384 vide order dated 4th September, 1984. Basically, an application for ejection, preferred by the present Petitioner in the year 198081, is nothing but consequence of an order passed by the Sub Divisional Officer, Sahebganj dated 7th August, 1954. The order passed by the Sub Divisional Officer, Sahebganj has never been challenged by the Respondents.

3. Learned Counsel for the Respondents is seeking one week's time.

4. Time, as prayed for, is granted.

5. The matter is adjourned to be listed on 9th February, 2011.