
(2019) 08 JH CK 0022
In the Jharkhand High Court
Case No : Writ Petition (C) No. 3780 Of 2018

Haribans Yadav

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 14-08-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 08 JH CK 0022

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Sanjay Prasad, Parth Jalan

Final Decision : Disposed Off

Judgement

1. This writ petition is under Article 226 of the Constitution of India whereby and whereunder the order dated 17.01.2018 passed by respondent No.3 in case No.17/17-18 has been assailed whereby and whereunder the respondents has cancelled the long running jamabandi and acceptance of rent and issuance of rent receipt in lieu of the acceptance of the rent.

2. It is the case of the petitioner that the land in question has been settled in his favour but the ex-landlord by sada hukumnama and he has paid rent to the ex-landlord to be deposited in the State Exchequer and after its deposit by the ex-landlord, the due rent receipt has been issued on 12.03.1938 as would appear from Annexure-3 and as such the sada hukumnama coupled with the rent receipt will justify the proper settlement of land made in favour of the petitioner but on frivolous complaint having been made by the local people of the village, a proceeding for cancellation of jamabandi has been initiated in which he has given due reply but the recommendation for cancellation of the jamabandi has been made vide order impugned, therefore, the instant writ petition.

3. Mr. Sanjay Prasad, learned counsel for the petitioner has submitted that since the document which has been placed before the authority has not properly been

appreciated, more particularly, the sada hukumnama coupled with the rent receipt of 12.03.1938, and as such the recommendation having been made for cancellation of jamabandi is without appreciation of the material document and as such the said recommendation as has been impugned in this writ petition is not sustainable in the eye of law, accordingly, the same is fit to be quashed.

4. Mr. Parth Jalan, learned AC to GA-IV appearing for the State of Jharkhand has submitted by referring to the impugned order that the petitioner although has been provided with an opportunity to defend about the cancellation of the jamabandi and after coming to the conclusinve finding by going through the relevant documents which has been found to be forged, the commendation for its cancellation has been made and as such, the same may not be interfered with.

His further submission is that the petitioner has merely challenged the recommendation and as such the writ petition would be said to be premature as because no final decision has been taken by the competent authority as yet.

5. Upon this, Mr. Sanjay Prasad, learned counsel for the petitioner has submitted that although the recommendation is under challenge but as yet no final decision has been taken, therefore, the petitioner may be given liberty to approach before the competent authority who has been conferred with the power to take final decision under the statutory provision as applicable to produce the sada hukumnama as also the rent receipt dated 12.03.1938 as has been annexed as Annexure-3 to the writ petitioner for its appreciation, to which no objection has been shown by the learned State counsel.

6. Having heard the learned counsel for the petitioner and looking to the material available on record, this Court is of the view that the petitioner has challenged the recommendation although a finding has been recorded therein with respect to the document upon which the petitioner has relied upon which has been said to be forged and fabricated but the admitted fact herein as would appear from the impugned order that as yet no final decision has been taken, therefore, this Court is not inclined to interfere with the impugned order holding the writ petition as premature, however, with the liberty to the petitioner to file relevant documents i.e., sada hukumnama as also the rent receipt dated 12.03.1938, to justify the settlement made in accordance with law before the final decision taking authority i.e., respondent No.2, if no final decision has been taken.

7. If such document would be filed by the petitioner before the respondent No.2, the same would be considered before taking final decision.

8. It is made clear that this Court has not applied its mind on the merit of the claim of the petitioner.

9. In view thereof, the writ petition stands disposed of.