

(1972) 07 PAT CK 0005

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1137 of 1970

Haripada Ghosh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-07-1972

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1973 Patna 61

Hon'ble Judges : U.N. Sinha, C.J; K.B.N. Singh, J

Bench : Division Bench

Advocate : S.N. Mishra, for the Appellant; S.R. Ghosal and Addl. Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

1. The petitioner has filed this writ application praying, that, an order incorporated in Annexure 5, dated the 4th May, 1970, passed by the Sub-divisional Officer Jamtara, may be quashed. By that order, the writ petitioner has been fined Rs. 200/- for contravening Section 21 (6) of the Santal Parganas Tenancy (Supplementary Provisions) Act, 1949, by not giving up possession of the land covered by a Bhugutbandha deed, dated the 3rd May, 1962, and certain other consequential order has also been passed.

2. The relevant facts are as follows. Respondent No. 3, had applied before the Sub-divisional Officer, Jamtara, as the mortgagor of a Bhugutbandha deed for restoration of possession on the expiry of the term of the mortgage. The case of this respondent before the Sub-divisional Officer was, that the opposite party there was a mortgagee and, as he was the Mukhiya he was so influential that he was not allowing the mortgagor to come to court for restoration of the mortgagor's properties earlier. The contention of the writ petitioner was a denial of any Bhugutbandha transaction and his case was, that, he was in possession on kuth system and it was alleged, that, in 1940 present respondent No. 3 had transferred all her lands by way of Khorfa settlement. It is also alleged, that, in

1966 present respondent No. 3 had filed a suit for recovery of possession of the very disputed lands and the suit had been compromised, by which this writ petitioner continued in possession. On a consideration of all the evidence on record, including the certified copy of the Bhugutbandha deed, dated the 3rd May, 1962, the Sub-divisional Officer came to the conclusion, that, the writ petitioner's case of Khorfa settlement in the year 1940 was not acceptable. Present respondent No. 3's case of Bhugutbandha transaction has been accepted. It has been indicated, that the title suit had been instituted within the pendency of the Bhugutbandha transaction. That is to say, the entire case of present writ petitioner has been rejected by the Sub-divisional Officer and the case of present respondent No. 3 has been accepted.

3. Learned counsel for the petitioner has relied upon his client's case of Khorfa settlement. But, in view of the finding arrived at by the Sub-divisional officer in this summary proceeding, we are not prepared to reverse the finding of fact arrived at on the materials on record. The Khorfa Patta relied upon by the writ petitioner had not been filed and, on the contrary, the Bhugutbandha document relied upon by the present respondent No. 3 was brought on the record. Therefore, on the findings arrived at by the Sub-divisional Officer, we do not think that we should interfere in our writ jurisdiction. The writ application, therefore, fails and is dismissed, but without costs.

4. The order of stay stands vacated. Application dismissed.