

(2025) 06 JH CK 0970
In the Jharkhand High Court
Case No : W.P. (C) No. 6043 Of 2010

Jagdish Rai, S/o Late Shiv Dayal Rai

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 30-06-2025

Acts Referred:

Santhal Pragana Settlement Regulation Act, 1872 — Section 24

Citation : (2025) 06 JH CK 0970

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : R.N. Pd., Manoj Kumar, Ranjan Kumar

Final Decision : Disposed Of

Judgement

Gautam Kumar Choudhary, J

1. The petitioner is before this Court against the order passed on 08.07.2009 by the Learned Commissioner, Santhal Pargana Division, Dumka in R.M.R No. 41/2003-2004 whereby appeal preferred by Respondent No.2 to 5 against order of the Charge Officer, Dumka passed in T.L. Case No. 249/1987 has been partially allowed, thereby directing the respondents eviction from plot nos. 28, 29, 51, 180, 201, 221 and 381 of Jamabandi no. 3 corresponding to old plot nos. 28/33, 29/38, 51/38. 180/147, 201/137, 221/173, 221/176, 381/275 situated in Mouza Sabeduma.

2. As per case of the petitioner is that the land in question was recorded in the name of Chando Rai, in the Gantzer settlement and the petitioner is the great grandson of Chando Rai.

3. As per the Petitioner genealogical table is as under: -

4. Petitioner continued to be in possession of the said land since the time of Gantzer settlement.

5. It is averred that for the first-time father of respondent no. 5 namely Chhota

Doman Rai asserted the claim over the said land in T.L. Case No. 249/1987 claiming that Budhan Rai was the minor brother of recorded tenant Chando Rai, who was minor at the time of Gantzer settlement, therefore, his name could not enter into the record of rights.

6. The Charge Officer, Dumka turned down the claim of the Respondents, and ordered eviction of Chhota Doman Rai vide order dated 17.09.1987 against which appeal was preferred being R.M.R no. 41/2003-04 in the Court of learned Commissioner, Santhal Pragana Division, Dumka. The said appeal was partially allowed ex-parte in favour of respondent nos. 2 to 5 against whom the instant writ petition has been preferred.

7. It is argued by the learned counsel on behalf of the petitioner that the final publication in record of rights following Gantzer settlement was made in 1932. As per Section 24 of the Santhal Pragana Settlement Regulation Act, 1872, the period of limitation for preferring any objection to the entry in the final publication of record of right was six months. The objection has been raised after an inordinate delay and therefore, it is time barred. Reliance in this regard is placed on 2004 AIR Jhar HCR 1590.

8. It is further argued on fact that the learned Commissioner has set aside the order of the Charge Officer without referring to the materials on the basis of which the finding of facts has been disturbed. There is no evidence whatsoever to show that the private respondents are the heirs and descendants of Budhan Rai who were minor and they were the brothers of the recorded tenant-Chando Rai.

9. On the other hand, it is argued by the learned counsel on behalf of private respondents that final publication can be revisited at the fresh survey settlement operation. In the present case, recent survey settlement proceeding was initiated in 1978 and only then the private respondents had an opportunity to raise the objection with regard to their non-entry in it. In this regard reliance is placed on 1999 SCC Online Pat 893.

10. Having considered the submissions advanced on behalf of both sides, since the matter involves contesting claims over the genealogy, the Writ Court cannot pass any order regarding it. The Charge Officer had returned a finding of fact in favour of the petitioner which has been reversed in R.M.R. Case No. 41 of 2003-04 without assigning specific cogent reasons for the same. Furthermore, the said order was passed ex-parte without hearing the petitioner.

11. Under the circumstance, the impugned order is set aside. The matter is remanded back to the learned Commissioner, Santhal Pragana to pass order afresh, after hearing the parties, within a period of twelve weeks from the receipt/production of a copy of this order. Both the parties are directed to appear before the Commissioner, Santhal Pragana on 28.07.2025.

In the event of non-appearance of any party, learned Commissioner to proceed as per law.

It goes without saying that during pendency of the RMR case before the Commissioner, the status quo shall be maintained.

This writ petition stand disposed of. Pending I.A., if any, also stands disposed of.