
(2019) 01 JH CK 0150
In the Jharkhand High Court
Case No : Writ Petition (C) No. 135 Of 2018

Kabir Grover

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 17-01-2019

Acts Referred:

Chotanagpur Tenancy Act, 1908 — Section 83
Constitution Of India, 1950 — Article 226

Citation : 2019 0 FFLT(JHH) 41

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Rohit Roy, Vijay Kant Dubey

Final Decision : Disposed of

Judgement

1. The show cause notice dated 02.12.2017 passed by the Khas Mahal Officer, Hazaribagh under the Jharkhand Public Land Encroachment

(Amendment) Act, 2016 has been challenged in the instant writ petition.

2. Learned counsel for the petitioner submits that the land pertaining to Khata No.30, Plot No.163, Thana No.139 of Mouza Nawada, district-

Hazaribagh has been recorded in the name of Chairman, Hazaribagh Municipality in the record of rights finally published under the provision of

Section 83 of Chotanagpur Tenancy Act, 1908. The aforesaid land has been transferred in favour of one Dineshwar Prasad and thereafter subsequent

upon transfer in favour of subsequent purchaser from whom petitioner has purchased and is claiming title over the said land and claiming possession

on the basis of an agreement and hence it is not a public land and as such the notice is not sustainable in the eye of law.

It has further been submitted that proceeding over the said land has been

initiated wherein final decision has been taken holding therein that the land in question is not a public land.

3. Counter affidavit has been filed by the State-respondent wherein the title of the petitioner has been disputed.

Mr. Vijay Kant Dubey, learned counsel appearing for the State- respondent has submitted that since the show cause notice is under challenge,

therefore, this Court sitting under Article 226 of Constitution of India is not supposed to conduct enquiry by acting as an Enquiry Officer, therefore, the writ petition may not be entertained.

4. Heard learned counsel appearing for the parties and considered their rival submissions. It is evident that the show cause notice dated 02.12.2017

has been challenged on the ground of jurisdiction on the basis of decision already taken by the competent authority deciding therein the nature of land.

It is not in dispute that the show cause notice, if issued by the competent authority, need not to be interfered with by the High Court but if there is any

factual dispute, it has to be enquired into by the concerned competent authority, therefore, this Court is not inclined to interfere with the show cause

notice rather the same is to be taken into consideration by the competent authority, therefore, the petitioner is given liberty to appear before the

Khas Mahal Officer, Hazaribagh along with relevant documents, record of rights and judgments/orders passed by the Court of Law to substantiate his

title over the land in question within a week from the date of receipt of a copy of this order.

5. The concerned competent authority will scrutinise the document pertaining to record of rights of the land in question and will take a decision within

three weeks from the date of receipt of such application by the petitioner by passing speaking order in accordance with law.

6. Till the decision is taken by the competent authority, no coercive step shall be taken over the land in question.

7. It is made in clear that the decision shall be taken within the period as specified hereinabove, not later than that.

8. With this observation, instant writ petition stands disposed of.