

(1972) 07 PAT CK 0012

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 922 of 1970

Kalipada Mahto and Another

APPELLANT

Vs

The Deputy Commissioner and Others

RESPONDENT

Date of Decision : 24-07-1972

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1973 Patna 24

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

Bench : Division Bench

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

Final Decision : Dismissed

Judgement

1. This writ application has been filed by the petitioners, praying, that, an order incorporated in Annexure 3, dated the 10th March, 1970, passed by the Sub-divisional Officer, Jamtara, may be quashed. By that order, the writ petitioners have been evicted from certain lands appertaining to A.K.J. No. 33 of village Tilaki.

2. The relevant facts are as follows. Respondents Nos. 2 to 4 had applied before the Sub-Divisional Officer, alleging, that, they were in possession of the disputed lands of A.K.J. No. 33 recorded in the name of their father and then- agnates and, that, for the last two years the opposite parties before the Sub-Divisional Officer, that is, the writ petitioners, had forcibly and illegally taken possession of the land. The case of the writ petitioners was, that, their father had obtained Khorfa settlement of the land appertaining to A.K.J. No. 33, including the disputed plot in 1345 B.S. and since then their family were in possession. It was alleged, that, in 1967 the Khorfa settlers had filed a title suit for recovery of possession, which was compromised and two plots were left to the plaintiffs of that suit and the compromise decree accepted the possession of these writ petitioners. After a consideration of the materials on record, the Sub-Divisional Officer has come to

the conclusion, that, the case made out by the writ petitioners was not acceptable, all the alleged transactions relied upon by the writ petitioners were considered to be collusive transactions and it was held, that, the writ petitioners had contravened the provisions of Section 20 (1) of the Santhal Parganas Tenancy (Supplementary Provisions) Act, 1949. Thus, the order of eviction followed.

3. According to the learned counsel for the petitioners, the writ petitioners were in possession since 1345 B.S. and, as their possession was recognised in the title suit, they could not have been evicted by the impugned order. But, in this summary proceeding the learned Sub-Divisional Officer has refused to accept the writ petitioner's case of long possession and all transactions relied upon by them have been held to be collusive and, therefore, we do not think, that, we should interfere in our writ jurisdiction.

4. In the result, the writ application fails and is dismissed, but without costs.

5. The order of stay stands vacated. Petition dismissed.