
(2020) 01 JH CK 0286

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1490, 1491 Of 2019

Kalpana Chanda And Ors

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 20-01-2020

Acts Referred:

Citation : (2020) 01 JH CK 0286

Hon'ble Judges : Rajesh Shankar, J

Bench : Single Bench

Advocate : Rahul Kumar Das, Vineet Prakash, A. R. Kisku

Final Decision : Disposed Of

Judgement

The present writ petitions have been filed for quashing the order dated 16.02.2019 (Annexure-4 to the writ petitions) passed by the respondent No.5 in Mutation Case Nos. 965 R 27 / 18-19 and 964 R 27 / 18-19 respectively rejecting the petitioners' applications for mutating the land appertaining to part of R.S Plot No. 333, Khata No. 144 of Revisional Survey Record of Right, Village-Konka, Thana No. 198, P.S-Lower Bazar, corresponding to part of Municipal Survey Plot No. 243, Ward No. IV (old) & 13 (new) of Ranchi Municipal Corporation, District-Ranchi, measuring an area of 3 Kathas (4.94 decimals) respectively in their favour on the ground that Jamabandi (rent roll/demand) with regard to the said land is running for more than the actual area recorded in the Khatian. Further prayer has been made for issuance of direction upon the respondent Nos. 4 & 5 to mutate the said land in favour of the petitioners.

Learned counsel for the petitioners submits that the petitioner of W.P.(C) No. 1491 of 2019-Jiwan Manik Chanda purchased 6 Kathas of the said land from one Tulsi Sharan Mahto, son of Harihar Mahto @ Harihar Koeri by way of registered sale deed in the year 1983. Subsequently, he sold 3 Kathas (4.94 decimals) out of the said land to his wife Kalpana Chanda [the petitioner of W.P.(C) No.

1490/2019]. The petitioners thereafter filed Mutation Case Nos. 845 R 27 / 2016-17 and 844 R 27 / 2016-17 respectively before the respondent No.5 for mutating the said land in their favour which were rejected vide order dated 27.12.2016. Thereafter, the petitioners preferred appeal being Mutation Appeal Nos. 206 R 15 / 16-17 and 205 R 15 / 16-17 respectively before the respondent No.4, who vide order dated 27.03.2018, after observing that the cases appear to be of rent fixation, remanded the matter to the respondent No.5 to prepare a fresh proposal of mutation as well as rent fixation after making due enquiry and to send the same with recommendation to his Court. Thereafter, the respondent No.5 prepared a report and sent the same to the respondent No.4, who after considering the report as well as the recommendation of the respondent No.5, rejected the rent fixation claim of the petitioners. The petitioners again filed respective mutation applications before the respondent No.5 which were registered as Mutation Case Nos. 965 R 27 / 18-19 and 964 R 27 / 18-19 respectively and the same were rejected by the respondent No.5 vide the impugned orders dated 16.02.2019 observing inter alia that since the Jamabandi relating to the concerned land has been running more than the actual area recorded in the Khatiyani, the said land cannot be mutated as requested by the petitioners. However, an appropriate action can be taken for cancellation of Jamabandi. The case of the petitioners is that the mismatch/inconsistency appearing in the area of the land recorded in the Khatiyani vis-a-vis the Jamabandi of different Raiyats opened subsequently is due to inaction on the part of the revenue authorities themselves which is nothing, but a calculation mistake.

A counter affidavit has been filed on behalf of the respondent Nos. 2 to 5 stating inter alia that the mutation applications of the petitioners have been rejected by the respondent No.5 on the ground that the Jamabandi of the land in question is running in Register-II more than the recorded area of 97 decimals which is wrong. Thus, the Register-II is required to be verified thoroughly in order to find out the fault and the Jamabandi created in the Register-II is to be corrected as per the record and the area of the land in question.

Be that as it may. Since the present matter requires factual determination, without entering into the respective contentions raised by the parties, the petitioners are given liberty to prefer representation(s) before the Deputy Commissioner, Ranchi (the respondent No.3) in this regard. On receipt of such representation(s), the respondent No.3, after calling for the relevant record and on providing due opportunity of hearing to the petitioners/their representatives, shall take appropriate steps in accordance with law preferably within a period of four months from the date of receipt of the said representation(s).

The present writ petitions are accordingly disposed of with the aforesaid liberty and direction.