
(2019) 03 JH CK 0022
In the Jharkhand High Court
Case No : Writ Petition (C) No. 917 Of 2019

Kamal Krishna Ghose

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 13-03-2019

Acts Referred:

Santhal Parganas Tenancy Act, 1949 — Section 20, 42
Constitution Of India, 1950 — Article 226

Citation : (2019) 03 JH CK 0022

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : J.P. Jha, Ranjan Kumar Singh, Pankaj Kumar Choudhary

Final Decision : Disposed Off

Judgement

This writ petition is under Article 226 of the Constitution of India wherein the notice as contained in Annexure-4 series are under challenge, whereby and whereunder the petitioner has been directed to be evicted by taking of coercive measure from the premises in question.

It is the case of the petitioner that the original title of the property in question is of the petitioner but a dispute has been raised by the private respondent before the Subdivisional Officer who has passed an order by setting the proceeding ex-parte while the petitioner has never been served any notice of the aforesaid proceeding. However, against the said order the appeal was filed before the Deputy Commissioner of the district, who by a cryptic order, has dismissed the same making observation that the S.D.O has passed reasoned order under Section 20 and 42 of the Santhal Pargana Tenancy Act and therefore, he is aggrieved with the same.

The petitioner has approached before the revisional authority under revisional jurisdiction with the Commissioner, Dumka Division being R.M.R. No.115 of 2018-19 which has been admitted for hearing but in course of its pendency the

notices have been issued for eviction from the premises as would be evident from Annexure-4 series appended to the writ petition, therefore, the instant writ petition has been filed.

It is the grievance of the petitioner that when the jurisdiction of revision has been invoked therefore without getting the same adjudicated the petitioner will be evicted from the premises which will be subjected to irreparable loss and inconvenience, therefore, the notices are not sustainable in the eye of law and it is without any application of mind by the concerned authority.

It is further grievance of the petitioner that he has tried to bring to the notice of the Commissioner about the aforesaid notice by making an application for preponment of date of revision which has been fixed on 11.04.2019 but the same has not been accepted which compelled the petitioner to invoke extraordinary jurisdiction conferred under Section 226 of the Constitution of India.

Mr. Pankaj Kumar Choudhary who has submitted on instruction of the respondent no.6 that he has received Vakalatnama on his behalf which he is going to file in course of day and has submitted that the notices do not suffer from any infirmity rather it is in consequence to the order passed by the Subdivisional Officer and the Deputy Commissioner and in the revision there is no ad interim stay.

Learned counsel appearing for the State respondent has submitted that the writ petition may be disposed of directing the revisional authority to dispose of the revision within stipulated period.

Having heard learned counsel for the parties and after appreciating the rival submissions the factual aspect which is not in dispute is that a dispute has been raised by the respondent no.6, however, the possession of the landed proper in question by making an application before the Subdivisional Officer which has been instituted being R.E.R No.70 of 2009-10 which was disposed of vide order dated 12.12.2011 wherein the order has been passed directing the Circle Officer, Godda to hand over the possession of the aforesaid proper in favour of the respondent no.6.

The petitioner being aggrieved with the aforesaid order both on the ground of merit as also the setting of the proceeding ex-parte since according to him no notice has ever been served, has preferred appeal before the appellate authority- Deputy Commissioner, Godda who has passed the order by dismissing the appeal concurring with the reason recorded by the Subdivisional Officer.

The contention urged by the learned senior counsel appearing for the petitioner that the order passed by the Deputy Commissioner is cryptic and even though he, in exercise of appellate jurisdiction, is supposed to assign the reason, if not the detailed reason some reason be assigned so that the mind of the appellate authority be clear from bare reading of the appellate order and there only it can be said to be an order in accordance with law and be sustainable in the eye of

law and on this ground he has preferred revision before the revisional authority which has been admitted for final hearing as would be evident from order dated 06.06.2018 as contained in Annexure-5 to the writ petition.

The grievance of the petitioner starts from the action of the respondent authorities whereby and whereunder the Circle Officer issued notice on 18.12.2018 and subsequent dates thereto directing the petitioner for eviction from the said premises.

As has been argued by the learned senior counsel for the petitioner that when the revision is pending before the revisional authority and if the petitioner will be evicted from the premises he will be subjected to irreparable loss.

This Court without going into the factual dispute, deem it fit and proper to direct the revisional authority to take final decision upon the revision within a period of ten weeks from the date of receipt of the copy of the order.

It has been found to this Court as yet appearance of the respondent no.6 is not there, Mr. Pankaj Kumar Choudhary, learned counsel for the respondent no.6 has submitted that due appearance of the respondent no.6 would be made on the next date on 11.04.2019 so that the matter may be disposed of without any unnecessary delay.

In view of the aforesaid submission of Mr. Pankaj Kumar Choudhary, the respondent no.6 is directed to put his appearance before the revisional authority on 11.04.2019 so that he may appear along with the response of the revision application.

Mr. Ranjan Kumar Singh, learned counsel for the petitioner is directed to serve a copy of the writ petition upon Mr. Pankaj Kumar Choudhary, learned counsel for the respondent no.6 by tomorrow.

So far as predicament of the petitioner for eviction is concerned since next date is fixed on 11.04.2019, therefore, it would just and proper to direct the respondent to maintain status quo with respect to the landed property in question which is subject matter of the revision which will be operative till 11.04.2019.

The petitioner is at liberty to make an application for interim order by filing appropriate application before the revisional authority which shall be dealt with after hearing learned counsel for the parties in accordance with law.

The writ petition is accordingly disposed of.