
(2004) 08 JH CK 0054
In the Jharkhand High Court
Case No : CWJC No. 1823 of 1997 (R)

Kanhai Das and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 19-08-2004

Acts Referred:

Chotanagpur Tenancy Act, 1908 — Section 46, 71A
Constitution of India, 1950 — Article 226

Citation : (2004) 3 BLJR 2089 : (2005) 1 JCR 44

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : R.C. Khatri, for the Appellant; M.J. Rahman, J.C. to G.P. II and Delip Jerath, for the respondent Nos. 5 to 13, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Panchu Oraon and others filed an application u/s 71-A of the Chotanagpur Tenancy Act, 1908 before the Special Officer, Scheduled Area Regulation, Ranchi for restoration of 1.05 acres of Plot No. 1501 and 1.10, acres Of Plot No. 1502 within Khata No. 148 on the grounds mentioned in their application. The Special Officer by his order dated 15.5.1992 contained in Annexure-2 to the present writ application, directed the opposite party therein, namely, Ramsatya Yadav and others to restore the possession of the lands in question to the applicants holding that the transfer of the land was made in contravention of Section 46 of the Chotanagpur Tenancy Act.

2. Thereafter Kanhai Das and others filed an appeal before the Additional Collector, Ranchi against the aforesaid order of the Special Officer, stating therein that they were not made parties in the proceeding before the Special Officer, though they have validly acquired the land in question and substantial structure has been raised over the lands in dispute. The Additional Collector by order as contained in Annexure-3, dated 24.5.1990, remanded the matter back to the Special Officer to decide the case afresh after hearing the appellants before him.

Thereafter the Special Officer vide order dated 26.4.1993, contained in Annexure-4 to the present writ application directed the payment of compensation fixed by him to the applicants by the opposite parties. Thereafter an appeal was again filed before the Additional Collector, Ranchi and the Additional Collector by order dated 1.7.6.1995, contained in Annexures-5, allowed the appeal and set aside the order of the Special Officer and directed to restore the lands to the applicants. Thereafter a Revision application was filed before the Commissioner by the present writ petitioners against the order of the Additional Collector which was dismissed on 21.5.1997 by order as contained in Annexure-6 to the present writ application. The writ petitioners have challenged the order as contained in Annexure-5, passed by the Additional Collector as well as the order as contained in Annexure-6, passed by the Commissioner, South Chotanagpur Division, Ranchi in the present writ application. From perusal of the order of the Additional Collector as contained in Annexure-5, it appears that after considering the facts and submissions made by the parties, he held that before transfer of the lands in question, no permission of the Deputy Commissioner was taken. It was further held that it was simply an oral transfer and not by any written document, which was not sustainable in the eyes of law. From perusal of the order of the learned Commissioner, it appears that he has affirmed the findings arrived at by the Additional Collector by a reasoned order.

Mr. R.C. Khatri, learned counsel for the petitioner, in course of his argument could not satisfy this Court and could not point out any illegality committed either by the Additional Collector or by the Commissioner, South Chotanagpur Division, Ranchi. Having gone through the impugned orders, contained in Annexures-5 and 6, I find that the findings arrived at by the two competent Courts is valid and proper and the concurrent findings arrived at by the two Courts, does not require any interference by this Court.

4. Accordingly, I find no merit in this writ application and, as such, this writ application is dismissed. No costs.