

(2012) 07 JH CK 0155
In the Jharkhand High Court
Case No : WP (C) No. 6315 of 2006

Krishna Ram and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 05-07-2012

Acts Referred:

Citation : (2012) 4 JLJR 6

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Sunil Kumar, for the Appellant; Sunil Singh, for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard the counsel for the parties. The writ petition has been filed for restraining the respondents from auctioning the respective shops allotted to petitioners at Simdega Market Complex, which was provided to them after completion of all required formalities, since the respondents are adopting pick and choose policy without taking into consideration the observation made by this court in W.P.C. No. 4859 of 2004 dated 7.7.2006.

2. The respondents, on the other hand have appeared and filed their counter affidavit, wherein it has been stated that petitioners were found indulged in subletting their shops and the sub-tenants have approached the respondents for allotment of the shops in question. It is further stated that in earlier writ petition being W.P.C. No. 4859 of 2004 in the case of Abdul Kalam vs. State of Jharkhand and Others this court while dealing with that case of shop no. 135 situated in the market complex, Simdega was pleased to direct the respondent in following terms:--

The Sub-Divisional Magistrate is directed to personally make an inquiry and issue notices to all those persons who have been running the shops either on the basis of the sub-lessee or on the basis of purchaser. All those persons who are illegal occupying the shops and running the business shall be noticed to show cause and after giving reasonable opportunity of hearing, get the shops vacated to be

re-allotted to the needy persons including the persons who shall be evicted. This exercise must be completed with a period of six months from today.

3. In obedience of the said order notices were issued to these persons and other allottees as they were found indulged in subletting the shops in question and after proper notice and show cause filed by the allottees, the impugned order was passed evicting those persons and the shops were vacated and sealed on 4.10.2006. It is further been stated that the process of fresh allotment of shops to the needy person has been initiated and published in the daily newspaper.

4. No rejoinder to the said counter affidavit has been filed by the petitioners nor the aforesaid contention of the respondents have been denied.

5. It has been submitted on behalf of the petitioners that in view of the order dated 7.7.2006 passed by this court in W.P.C. No. 4859 of 2004, the respondents should consider the case of the petitioners also who have been evicted taking into account that they are also needy persons.

6. After hearing both the parties and carefully going through the records as well as notices issued to the petitioners and the impugned order, it appears that the respondents have in obedience to the order passed by this court in W.P.C. No. 4859 of 2004 taken diligent step to inquire as to such cases in which the allotment was made to those persons who had sublet the premises to other sub-tenant by giving show cause notices. Only after giving opportunity to them the impugned order has been passed and that has also taken effect pursuant to their eviction, as already stated in the counter affidavit.

7. In the aforesaid facts and circumstance, I do not find any infirmity in the impugned order. However, as pointed out by learned counsel for the petitioner, respondents may in obedience of the order passed in W.P.C. 4859 of 2004 dated 7.7.2006, wherein it was indicated that shops will be re-allotted to needy persons, should allow the petitioners to make a representation for consideration of re-allotment of shops if available, to the persons who are found to be needy. With the aforesaid observation, this writ petition is disposed of.