
(2008) 04 JH CK 0018
In the Jharkhand High Court

Madan Pandey etc. and Mukund Pandey	APPELLANT
Vs	
BCCL and Others	RESPONDENT

Date of Decision : 01-04-2008

Acts Referred:

Citation : (2008) 2 JCR 516

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K. Merathia, J.—As both the writ petitions involve similar questions, they were heard together and are being disposed of by this common order.

2. Petitioners have challenged the orders dated 7.9.2007, passed in Misc. Appeal Nos. 87/2005 and 86/2005 respectively, by learned District Judge, Dhanbad, affirming the order passed by the Estate Officer in Eviction Case No. 2 of 2005 dated 11.8.2005.

3. Counsel for the petitioners relying on paragraph 6 of the purported agreement dated 31st March, 1995 (Annexure 3) submitted that the title and possession of the petitioners were accepted and thus there was a bona fide and complicated questions of title, which could not be decided in the summary proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (the Act for short), and the respondents were required to file suit, He relied on the judgments reported in Madan Mohan Vadehra Vs. Bharat Coking Coal Company Ltd. and Others, and 2002 (3) JCR 700 (Jhr) : 2002 (3) JLJR 241-M/s. Shree Bajrang Hard Coke Manufacturing Corporation v. Shri Ramesh Prasad.

4. Counsel for the respondents supported the impugned orders. He submitted that the petitioners raised certain structures over the colliery premises/lands belonging to the respondents. However, in order to avoid any obstruction in the working of the Mines, the Company offered compensation for removal of such unauthorized construction including the transportation charges etc., but the

petitioners did not vacate the unauthorized occupation and therefore respondent Company had no option than to initiate a proceeding for eviction under the Act.

5. The question is whether there is bona fide dispute and complicated questions of title are involved or not.

6. In the said cases, relied on behalf of the petitioners, it was found that there was a bona fide dispute of title. But in the present case, it has been found that the land in question belonged to Isha Bell Coal Company and it was accordingly recorded in the survey settlement khatiyā in the name of the said Company and the status of the land was shown as colliery with office bungalow, store room and chimney etc. The right, title and interest of the ex-landlord stood transferred and vested with the respondent Company with effect from 1.5.1973 under the Coal Mines Nationalization Act, 1973 free from all encumbrances.

7. The petitioner did not dispute this position. Even the whole of the purported agreement, including Clause 6 thereof, is only with regard to house and structures and not with regard to the lands/colliery premises, over which they are constructed. It appears that in order to avoid any hindrance in the working of Mines, the respondents agreed to pay compensation etc, for removing such house and structures.

8. It further appears from the copy of the said agreement that 50% of such compensation was paid to and received by the petitioners. Petitioners did not derive any right to continue with their unauthorized occupation over the public premises, on the basis of purported agreement. Thus, it is clear that the purported dispute sought to be raised by the petitioners is not at all a bona fide dispute of title and no complicated questions of title are involved in these cases.

9. The Estate Officer and learned District Judge have considered the respective cases of the parties and taking into consideration relevant aspects of the matter have recorded the findings correctly. I am not inclined to interfere with such findings. Accordingly, these writ petitions are dismissed. However, no costs.