
(2008) 08 JH CK 0159
In the Jharkhand High Court

Mahabir Kanshi

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 07-08-2008

Acts Referred:

Bihar Land Reforms Act, 1950 — Section 3, 4, 4(h)

Citation : (2008) 4 JCR 428

Hon'ble Judges : Ajit Kumar Sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajit Kumar Sinha, J.—The present writ petition has been preferred challenging the order dated 13.1.1999, passed by the Deputy Commissioner, Ranchi, in Misc. Appeal No. 254 of 1998, whereby, it has affirmed the order dated 6.4.1997, passed by the Sub Division Officer, Ranchi in Misc. Case No. 27 of 1996-97.

2. The facts in brief, as submitted by the petitioner, are set out as under:

The land, in dispute, pertains to R.S. Khata No. 268, Plot No. 2983, comprising a total area of 1.08 Acres of Village-Argora, Police Station-Arogra, Thana No. 207. A proceeding being Misc. Case No. 27 of 1996-97 was initiated by the Sub-Divisional Officer, Ranchi, on the direction of Additional Collector, since the plot, in question, was recorded as Gairmazarua Malik Parti Kadim in the revisional survey records of right.

3. In the show cause, filed by the petitioner, it was submitted that the land, in question, was settled by the Ex. Landlord Maharaja of Ratugharha by way of grant of Hukumnama, dated 22.3.1942 on receipt of Salami of Rs. 549/- only from the settlee, namely, Samu Sahu son of Jago Sahu. It has further been submitted that after settlement, the Ex. Landlord was granted receipt, which, was duly accepted and acknowledged. The settlee paid rent of Rs. 14/- only as fixed in the document of settlement and that is how he came in possession and acquired valid right, title and interest over the land. It is further submitted that

the landlord after vesting of estate with the State of Bihar submitted return of the land, showing the said Samu Sahu as raiyat of the land, in question. The petitioner further submits that after the death of the settlee, his son Chandan Sahu inherited the lands, in question, and paid rent in respect thereof. Chandan Sahu being the sole owner of the lands as per the satisfaction of his necessity sold the lands, in question, in favour of the petitioner vide, registered deed of sale dated 30.3.1989 on receipt of valuable consideration amount of Rs. 1,50,000/- only and that is how the petitioner acquired a valid and perfect title over the lands, in question. The petitioner's name was thereafter mutated in the Anchal office and the rents were paid. The petitioner further contends that no proceeding u/s 4(h) of the Bihar Land Reforms Act, 1950 was ever initiated by the State with respect to the lands, in question, for annulment of the settlement and, thus, the Sub-Divisional Officer has clearly erred in coming to the conclusion and has illegally vide its order dated 6.4.1997 cancelled the settlement of the petitioner. Being aggrieved with the order dated 6.4.1997, the petitioner preferred Misc. Appeal No. 254 of 1998 before the Deputy Commissioner, Ranchi, which was also dismissed. It appears that the petitioner, thereafter, preferred Mutation Revision No. 56 of 1999 before the learned Commissioner, who also vide its order dated 7.5.2002 rejected it on the ground that second revision was not maintainable. Accordingly, the present writ petition has been preferred, challenging the orders dated 6.4.1997 and 13.1.1999.

4. The respondents in the counter affidavit have submitted that the disputed land was recorded as Gairmazarua Malik Parti Kadim in the revisional survey records of right and in view of the claim/demand for an area of 49 Decimals of the land, in question, a proceeding was initiated by the Sub-Divisional Officer, Sadar, Ranchi vide Misc. Case No. 27 of 1996-97 to examine the genuineness of the demand in respect of the land, in question, created in the name of said person in Register-II of Circle Officer, Town Anchal, Ranchi. The respondents submit that the land, in question is gairmazarua Malik land of the Government and the demand of the land, in question, was created to grab the valuable land in collusion of the Government officials and under the above mentioned facts and circumstances the demand of the disputed land, recorded in the name of the petitioner in Register-II of the Circle Officer, Ranchi, was cancelled by the learned Sub-Divisional Officer, Sadar, Ranchi vide impugned order dated 6.4.1997. It has further been submitted that five Revenue Appeals were preferred before the Deputy Commissioner and the facts, involved in all the appeals, were same and the learned Deputy Commissioner after hearing all the aforesaid appeals together passed a common order dated 13.1.1999, rejecting the appeals. The appellant authority specifically held that the land, in question, in Gairmazarua Malik land as recorded in the records of right and after vesting of Jamindari, the entire Gairmazarua land vested in the State Government under Sections 3 and 4 of the Bihar Land Reforms Act, 1950 and the State Government is deemed to be in possession by way of its statutory right and no one had the legal or vested right to settle this land after vesting of Jamindari. It is further submitted that in

case the land of Gairmazarua Khata have been settled prior to 1956 then the Ex. Landlord would have submitted the return of the land to the State Government, in which the name of the settlee would have been recorded as raiyat in respect of the land and after vesting of Jamindari, the State Government would have entered the name of said raiyat in Register-II and granted rent receipt thereof to the raiyat and the name of the raiyat would have been recorded in the Tenants Khatiyani and Tenants Ledger Register, prepared according to Section 3 of the Bihar Tenants Holding (Maintenance of Rent) Act, which is not the case herein. It has also been submitted that the vendors of the petitioner as raiyat have neither filed copy of the return (M-Form) nor the rent receipt from 1956 to 1983 to prove their claim. The respondents have further submitted that the Jamabandi, produced by the petitioner was examined and found to be fake and forged.

5. In the supplementary counter affidavit, filed by the respondents, it has been specifically stated that the present land, in question, has been enlisted in the land scam of Ranchi District being Complaint No. 2 of Village-Argora and a criminal case regarding manipulation and forgery of documents along with the interference with the Government records in connivance with the revenue officials has been lodged against the writ petitioner Mahabir Kanshi being R.C. Case No. 20 of 2000, which is sub-judice before the vigilance Court, Ranchi. It is further submitted by the respondents that a criminal case has also been lodged against the delinquent revenue officials, which has been registered as Vigilance P.S. Case No. 33 of 2002, and the same is sub-judice before the Court of Vigilance and the charges against the delinquent revenue officials have already been framed for initiation of departmental proceedings against them and the same has been sent to the competent authority.

6. I have considered the pleadings and submissions of the rival parties. It appears that the illegal Jamabandi of Gairmazarua Khas land is the valuable property of the State Government, which stood vested in the State under the Bihar Land Reforms Act, 1950 and was rightly annulled by the Sub-Divisional Officer, Sadar, Ranchi. It is further clear that the contention of the petitioner about the Ex. Landlord having submitted its return to the State Government at the time of vesting of Jamindari and the contention that the State Government had accepted the vendors of the petitioner as raiyats is on the face of it false and erroneous for the sole reason that no rent receipt from 1956 of 1983 was produced by the petitioner to prove his claim. Even the photo copy of the Jamabandi as produced by the petitioner upon examination was found to be forged and fake and held to be procured in collusion with some of the revenue officials. The fact remains that both criminal and departmental proceedings have already been initiated against the delinquent officials and charge sheet has also been submitted. The contention of the petitioner that Sada Hukumnama and Jamindari, receipts were produced also cannot be relied upon for the sole reason that the same can always be manufactured and in any case, no original document was filed by the petitioner and the Xerox copy cannot be relied upon. The fact remains that criminal cases have already been lodged against the

petitioner also in the land scam case with regard to manipulation of forged documents and interference with" the Government records in connivance and collusion with the revenue officials for which vigilance case has already been initiated and is pending as R.C. Case No. 20 of 2000 and further departmental proceedings have also been initiated wherein charge sheet has been filed. It will be apparent on perusal of Registrar-II that the Jamabandi, of the said disputed lands was created in Register-II based on forged Sada Hukumnama, in the year 1970-71 in the name of Samu Sao in collusion with the Revenue Officers of the State Government, who were neither authorized nor competent. In any case, the entry in Register-II was without any order of the competent authority and against the statutory law and circulars of the Government and the entire action of the petitioner was by way of fraud and collusion and, thus, he is not entitled to any equitable relief. The contention of the petitioner that no action u/s 4(h) of the Bihar Land Reforms Act was initiated is also unsustainable for the sole reason that the transfer itself was illegal, fraudulent and by way of collusion and, thus, not tenable and in any case, the land, in question, vested in the State and that is how it came into possession and the State is the statutory owner of the land.

7. In the aforesaid background, the illegal Jamabandi, based on forged Sada Hukumnama in collusion with the Government officials without obtaining the order of the competent authority was rightly cancelled by both the authorities i.e., the Sub-Divisional Officer and the Deputy Commissioner by a concurrent findings of facts and law. This writ petition, thus, being devoid of any merit, is, accordingly, dismissed, but without any order as to costs.