

(2018) 03 JH CK 0067
In the Jharkhand High Court
Case No : W.P.(C) No. 3076 of 2010

MAHADEO MAHTO

APPELLANT

Vs

STATE OF JHARKHAND & ANR

RESPONDENT

Date of Decision : 08-03-2018

Acts Referred:

Citation : (2018) 03 JH CK 0067

Hon'ble Judges : ANUBHA RAWAT CHOUDHARY, J

Bench : Single Bench

Advocate : Bijaya Kishore Prasad, Bakshee Vibha, Vijoy Kr. Sinha, Lalan Kr. Singh

Final Decision : Allowed

Judgement

1. Heard Mr. Bijaya Kishore Prasad, counsel appearing on behalf of the petitioner.
2. Heard Mr. Lalan Kr. Singh, counsel appearing on behalf of the respondent nos.1 to 5.
3. Heard Mr. Vijoy Kr. Sinha, counsel appearing on behalf of respondent no.6.
4. This writ petition has been filed for the following reliefs:
 - (a) For commanding the respondents to quash the order dated 04.06.2007 passed by the Deputy Commissioner, Hazaribagh, cancelling the continuing Jamabandi of the petitioner over the lands of Khata no.195, plot no.1364, measuring an area of 1.80 acres of village Kanchanpur, P.S. Lupung, P.S. Katamkamsandi District- Hazaribagh, by instituting an Acknowledgement of Tenancy Proceeding bearing No.16 of 2002, relying upon the outmoded Indian Printing Act, 1899, (Bhartiya Mudrank Adhiniyam) that settlement made by the Ex-landlord under Sada Hukumnama was not valid, and the documents of the Zamindari Return was not available in Anchal

Office of the State.

(b) For a direction upon the respondent nos.1 to 4 in particular to maintain the continuing jamabandi and petitioner's raiyati status and other rights

over the said lands for which the state is realizing the rents since the time of vesting of zamindari in the then State of Bihar (now Jharkhand State), in 1954.

(c) Also for a direction upon respondent nos.1 to 6, the state authorities in the district and the S.E. Railways, who got acquired the petitioner's

above mentioned lands measuring area 1.80 acres for the purpose of construction of railways, to pay the price of the lands and compensation to the petitioner for acquisition of his arable lands.

(d) For restraining the respondents from adopting coercive measures and to direct them to maintain status quo till such price and compensation is paid

or till disposal of this writ application.

5. According to the petitioner the land involved in this case was settled in favour of the petitioner by way of Sada Hukumnama by ex-landlord.

Thereafter the rent receipts were issued by the Zamindar and after the vesting of the land with the State, the rent receipts were also issued by the State.

6. The counsel for the petitioner submits that by order passed in Mutation Case No.138/1959-60 dated 18.09.1960, the mutation was allowed in favour

of the petitioner and thereafter the rent receipts were continuously issued. Counsel for the petitioner submits that the respondent-Deputy

Commissioner, Hazaribagh while passing the impugned order has not considered the matters properly and the documents which were produced by the

petitioner has not been properly considered. So far as order in Mutation Case No.138/1959-60 is concerned, the counsel for the petitioner submits that

it is a very old order and they are not in possession of the same at present. However, they may apply for certified copy of the same and obtain it,

which they may produce before the Deputy Commissioner, Hazaribagh if the matter is remanded back to the Deputy Commissioner, Hazaribagh for

fresh consideration.

7. The counsel for the petitioner also submits that the impugned order is preceded by the report of the concerned authorities who have recorded that

the petitioner has not produced any rent receipt prior to 1957 and in fact, the petitioner is in possession of rent receipt prior to 1957 and according to

the counsel for the petitioner, if an opportunity is granted to the petitioner, he shall produce the same before the Deputy Commissioner, Hazaribagh for consideration.

8. Upon this, counsel for the respondents submits that the impugned order has been rightly passed by the Deputy Commissioner, Hazaribagh and no

further opportunity should be given to the petitioner. The petitioner has produced some of the rent receipts in the writ petition for the first time and the

petitioner had not produced the same before the Deputy Commissioner, Hazaribagh at the appropriate stage, so he may not be permitted to do so even at this stage.

9. After hearing counsel for the parties and after considering the facts and circumstances of this case, it appears that the Deputy Commissioner,

Hazaribagh has passed the impugned order inter-alia on the ground that the Deputy Commissioner, Hazaribagh doubted the passing of order in case

number 138 of 1959-60 in absence of necessary details of the same and it appears that the petitioner did not produce the rent receipts which has been

annexed by the writ petitioner claiming to be the rent receipts in relation to the same property which is involved in this writ petition. However, in order

to meet the ends of justice, one opportunity is being granted to the petitioner by remitting the matter back to the Deputy Commissioner, Hazaribagh for

passing a fresh order after giving an opportunity to the writ petitioner to produce whatever documents he has including the rent receipts which the

petitioner claims to be in possession as well as the certified copy of the order said to have been passed in Case No. 138/1959-60 which the petitioner

may obtain from the concerned authority.

10. Under the facts and circumstances of this case, the impugned order dated 04.06.2007 passed by the Deputy Commissioner, Hazaribagh in

Tenancy Proceeding bearing number 16/2002 as contained in Annexure-1 to the writ petition, is hereby set-aside and the matter is remanded back to

the Deputy Commissioner, Hazaribagh for passing fresh order after considering the rent receipts and other documents which the petitioner may file

before the said authority within a period of two months along with a copy of this order. The Deputy Commissioner, Hazaribagh is directed to consider

the materials which are on record as well as the materials which may be produced by the petitioner pursuant to this order of the Court and pass a reasoned order after hearing the parties within a period of six months from the date of production/receipt of a copy of this order.

11. This writ petition is allowed with aforesaid observations and directions.