
(2018) 05 JH CK 0074
In the Jharkhand High Court
Case No : Writ Petition(C) No.4518 of 2010

Man Mohan Agrawalla

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 17-05-2018

Acts Referred:

Jharkhand Land Reforms Act, 1950 — Section 4(H)

Citation : (2018) 05 JH CK 0074

Hon'ble Judges : ANUBHA RAWAT CHOUDHARY, J

Bench : Single Bench

Advocate : Sushant Kumar Sinha, r. Suman Kumar Ghosh

Final Decision : Dismissed

Judgement

1. Mr. Sushant Kumar Sinha, counsel appears for the petitioner.
2. Heard Mr. Suman Kumar Ghosh, counsel appearing for the respondent-State.
3. This writ petition has been filed for the following reliefs: For quashing of the order dated 22.01.2010 whereby and whereunder, the learned Additional Collector, Dhanbad has been pleased to pass the order in Jamabandi Cancellation case no. 1/200910 and cancel the Jamabandi No. 126 and 162 of Mouza no. 127 Khata no. 6, plot no. 643 and 646 on the ground that the said jamabandi was wrongly created in the name of the father of the petitioner namely Shri Madan Lal Agrawalla and the said order dated 22.01.2010 was approved by the Deputy Commissioner, Dhanbad on 25.01.2010 and it was further directed to the Circle Officer, Govindpur to send a proposal to the L.R.D.C., Dhanbad for dispossession of the petitioner from the lands in question under section 4 (H) of Jharkhand Land Reforms Act, 1950 and an appropriate writ/order/direction may be issued upon the concerned

respondents not to take any coercive step/action in pursuance of the said order dated 22.01.2010/25.01.2010 and the concerned respondents may be

restrained from giving effect to the said order dated 22.01.2010/25.01.2010 against the petitioner for the lands in question; as also for issuance of

further appropriate writ/order/direction for doing conscionable and equitable justice to the petitioner.â??

4. From the perusal of the impugned order dated 22.01.2010 as contained in Annexure-6 to the writ petition, this Court finds that the claim of the

petitioner is based on unregistered documents and a recommendation was issued for the purposes of initiating a proceeding under Section 4 (H) of

Bihar Land Reforms Act.

5. This Court further finds that on 28.03.2018 after some argument the counsel for the petitioner had prayed for time to file supplementary-affidavit to

bring on record the application which was filed by the petitioner before the Circle Officer for creation of jamabandi in connection with the property

which is involved in this case and also the order passed by the Circle Officer pursuant to such application.

6. On 18.04.2018, by way of last indulgence the time was granted to the petitioner to comply the order dated 28.03.2018 and the matter was directed

to be posted on 03.05.2018. Thereafter, the matter was taken up on 10.05.2018 on which date nobody appeared on behalf of the petitioner and it was

clearly indicated that no further adjournment will be granted in this case.

7. Accordingly, this case is being taken up on the basis of the materials available on record.

8. Counsel for the respondents refers to paragraph no. 9 of the counter-affidavit which reads as under:

â??9. That it is stated and submitted that the lands measuring area of 0.59 acres and 0.60 acres in plot nos. 643 and 646 in Mouza Gosaidih Mouza

No. 127 of Khata No. 38 is recorded as Gair-abad land in the record of right and not in Khata No. 6, but in the jamabandi nos 126 and 162 under

Khata No. 6 in place of Khata No. 38 have been shown in the jamabandi erroneously opened with the connivance of the then Halka Karamchari and

rent receipts were issued in favour of Madan Lal Agarwalla without obtaining any order from the competent authority, i.e. Circle Officer, Govindpur

number shown in the said jamabandis. Thus, these jamabandis were found to

have been opened/created or shown in the jamabandi with the connivance of the Halka Karamchari.â??

9. Considering the impugned order and considering the statements made by the respondents in paragraph nos. 9 and 10 of the counter-affidavit, this

Court finds that serious disputed questions of facts are involved in this case which cannot be adjudicated in writ jurisdiction. Moreover, the petitioner

has not brought on record the required documents for appreciation of the facts of the case inspite of repeated opportunities. Accordingly, the writ

petition is dismissed.

10. However, it will be open to the parties to get their right, title and interest over the property involved in this case duly declared in accordance with

law.