
(2008) 03 JH CK 0048
In the Jharkhand High Court

Manbhui Mahto

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-03-2008

Acts Referred:

Chotanagpur Tenancy Act, 1908 — Section 83, 89(2)

Citation : (2008) 3 JCR 22

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

N.N. Tiwari, J.—The petitioner is aggrieved by the order dated 23.7.2002 passed by the Commissioner, North Chota Nagpur Division in Revisional Survey Appeal No. 28/98 whereby the Commissioner has upheld the order dated 24.1.1998 passed by the Charge Officer, Dhanbad in Revision Case No. 18148/96 and allowed the revision filed by the respondent Nos. 5 to 8 against the order passed u/s 83 of the Chota Nagpur Tenancy Act.

2. The grievance of the petitioner is that by the impugned order dated 24.1.1998, the Charge Officer sat over the order dated 9.10.1996 passed in the Revision Case No. 18148/96 whereby revision was declared as time barred and the same was not entertained. By the subsequent order dated 24.1.1998, the same Charge Officer has not only revived the revision, but also condoned the delay and allowed the revision.

3. Learned counsel for the petitioner submitted that once the Charge Officer did not allow the revision on the ground that it is time barred, he has no jurisdiction to condone the delay and entertain the application for review.

4. The petitioner filed appeal u/s 89(2) of the Chota Nagpur Tenancy Act against the said order raising the said point, but the Commissioner also did not appreciate the same and upheld the order of the Charge Officer.

5. A counter affidavit has been filed by the private respondents stating, inter alia, that the order dated 9.10.1996 was passed in absence of the respondents holding the case as time barred. Subsequently, the said, respondents filed an application drawing attention that the said order was passed in their absence. They also explained the reasons for delay and after due consideration of the explanation the delay was condoned. The Charge Officer, thereafter, dealt with the case on merit, as well and the case was decided in their favour. It has been submitted that there is no error of jurisdiction or arbitrariness in the impugned order of the Charge Officer. It has been clearly mentioned in the order dated 9.10.1996 that the order was passed due to non-appearance or on default of the respondents. The said respondents explained the default and the reasons for their absence and also prayed for condonation of delay. The Charge "Officer has every Jurisdiction to consider the explanation and to condone the delay. Learned Commissioner also considered the facts and circumstances and concurrently held in favour of the respondents. It has been submitted that it is a matter pertaining to the preparation of survey records in which the revenue authorities, particularly, the Divisional Commissioner is the final authority and this Court should not interfere with any finding of fact concurrently recorded by the said two authorities.

6. I have heard learned Counsel for the parties and considered the facts and materials on record. On perusal of the order dated 9.10.1996 passed by the Charge Officer, I find that the said order was passed in absence of the respondent Nos. 5 to 8 and the revision application was dismissed also holding the same as time barred. The said respondents subsequently appeared and explained their absence. He also explained the delay in filing the revision. The Charge Officer considered the same and not only restored the said order, but also condoned the delay and recorded his finding on the factum of possession and other relevant issue in favour of the said respondents. He directed to make correction In the records accordingly. The writ petitioner assailed the said order before the Divisional Commissioner in appeal u/s 89(2) of the Chota Nagpur Tenancy Act. He also considered the facts and the ground taken in the appeal. After due discussions and consideration he upheld the said order of the Charge Officer and dismissed the appeal.

7. In preparation of survey record, the Revenue Officers have got statutory jurisdiction. In exercise of their jurisdiction, the Charge Officer as well as the Divisional Commissioner have concurrently found and held in favour of the respondent Nos. 5 to 8. I find no infirmity or illegality in the impugned orders.

8. The petitioner has assailed the impugned order asserting his right, title and possession over the land in question. The said issues cannot be adjudicated upon and decided in writ jurisdiction of this Court. The petitioner is at liberty to approach the Civil Court of competent jurisdiction to seek appropriate relief for redressal of his grievance.

9. For the reasons above mentioned, this writ petition is dismissed with the

above observation.