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(2008) 05 JH CK 0022

In the Jharkhand High Court

Md. Awhab and Others — APPELLANT

Vs

State of Jharkhand and Others — RESPONDENT

Date of Decision : 07-05-2008

Acts Referred:
Constitution of India, 1950 — Article 226, 227

Citation : (2008) 3 JCR 3

Hon'ble Judges : Dhananjay Prasad Singh, J;Amareshswar Sahay, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard the parties.

2. The facts which emerges from the pleading of the parties are that Seikh Mehralli was granted lease of the lands comprising 15 Bighas 12 Katha 5 Dhurs situated in the District of Deoghar by the then Ghatwal of Pathrol Estate on 30.5.1900. According to the writ petitioners/appellants, Seikh Mehralli continued to be in possession so long he was alive and after his death, the petitioners, being the heirs of Seikh Mehralli, are continuously in possession of the property in question including the Marble House standing over the said property.

3. According to the respondents, Seikh Mehralli, was a tenure holder, granted raiyati settlement in favour of E.M. Floyd by registered deed of lease dated 15.11.1990 with right to construct house. Said E.M. Floyd sold the said land to Henry David Bonzamine on the same day and subsequently, the said property was purchased by the respondent Nos. 8 and 9 by virtue of the registered deed. According to the respondents, since the ancestors of the appellants/petitioners had already granted raiyati settlement in the year 1900 itself and therefore, they have no right and title over the property. As a matter of fact, Henry David Bonzamine, who was granted settlement of said land, had constructed a house known as ''Marble House'' and son of Henry David Bonzamine sold the land and Marble House to one Pradyuman Mullick in the year 1990 and the legal heirs of

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Pradyuman Mullick sold the land i.e. the property in question to the respondent Nos. 8 and 9 by a registered sale deed. After purchasing the property, the respondent Nos. 8 and 9 filed Title Suit No. 31/1991 for evicting the tenants ''Bihar State Food and Civil Supplies Corporation'' and the suit was decreed on 6.3.1993 and the possession of the suit land and Marble House was delivered to the respondent Nos. 8 and 9 and thus, the property in question belongs to the respondent Nos. 8 and 9 and the writ petitioners have no right, title or interest over the same.

4. The grievance of the appellants/petitioners are that though they are the legal heirs of Seikh Mehralli and were in continued possession of the property in question but they were forcibly ousted from the property in question by the orders passed by the Commissioner, Santhal Pargana, Dumka and the Deputy Commissioner, Deoghar.

5. From the impugned order passed by the learned single Judge, we find that the learned single Judge, after discussing in details the cases of the respective parties and considering the facts and circumstances of the case, held that the question as to who is the actual owner of the property in question having right, title or interest, cannot be adjudicated by this Court under its writ jurisdiction.

6. After going through the impugned judgment as well as after hearing the parties, we are also of the same view that the fact and points raised by the appellants/petitioners are complicated question of right, title and interest over the property in dispute and it is the settled law that such complicated question of right, title or interest over any property, cannot be adjudicated and decided by a writ Court in exercise of jurisdiction under Articles 226 and 227 of the Constitution of India.

7. Therefore, in our view, the learned single Judge has rightly dismissed the writ petition on the aforesaid grounds.

8. In this view of the matter, we do not find any merit in this letters patent appeal. Accordingly, it is dismissed.

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