
(2013) 02 JH CK 0068
In the Jharkhand High Court
Case No : Writ Petition No. 798 of 2013

Md. Kabir	Vs	APPELLANT
Union of India and Others		RESPONDENT

Date of Decision : 13-02-2013

Acts Referred:

Citation : AIR 2013 Jhar 69 : (2013) 2 AJR 175 : (2013) 2 JLJR 284

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Shresth Gautam and Raja Ravi Shekhar, for the Appellant; Ram Nivas Roy, for the Respondent

Judgement

Aparesh Kumar Singh, J.—Defects, as pointed out by the office, is said to have been cured, but the writ petition being W.P. (C) No. 798 of 2013 has been listed under the heading for orders. Heard learned counsel for the parties.

2. In these two writ petitions, the petitioners are aggrieved by notice and the order of the Estate Officer, Eastern Railway, Malda Division, contained at Annexures-1 and 3 by which the petitioners have been asked to vacate the land in question.

3. As per the petitioners, the land in question belong to them having been purchased under registered sale deeds from the Vendors in whose favour the same were settled earlier by the State Authorities.

4. By referring to Annexure-4 to the supplementary affidavit, it is submitted that the Settlement Officer, Dumka had settled the excess land in favour of the other persons, which were earlier acquired by the Railway. Annexure-5 is the Khatiyani Slip showing settlement in favour of the private raiyats, thereafter, at Annexure-6 is the sale deed by which the petitioners claim to have purchased the same land in the name of the wife of the petitioner in the first writ petition and in the name of father of the petitioner in the second writ petition from the vendors, whose land was earlier settled in favour of their predecessors.

5. The ground for challenging the impugned notice as well as orders passed in the purported exercise of power under Public Premised (Eviction of Unauthorized Occupants) Act, 1971 is that notice are completely vague without any description of land by which they have been summarily asked to be removed from their habitat.

6. From perusal of the notice at Annexure-1 and order at Annexure-3, it appears that the same lack in proper description of land, which is said to be encroached by these petitioners, based upon which, they have not able to furnish proper reply in their defence. It is the requirement of a proper notice that it should contain necessary details in order to give proper opportunity to the aggrieved parties to represent against the same before any adverse order is passed against them. This is one of the facets of principle of natural justice since otherwise it is an empty formality.

7. In these circumstances, the impugned notice and the order contained at Annexures-1 and 3 are quashed.

8. However, it will be open for the respondents to issue proper notice containing proper description of the land, which is said to be encroached by the petitioners and after proper opportunity in terms of the Act of 1971, proceed to pass orders in accordance with law.

9. Let it be made clear, no observation made herein shall be treated as comment on the merits of the case as the Court has not gone into the merit of the dispute. Accordingly, these writ petitions are disposed of in the aforesaid terms.