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**(2005) 09 JH CK 0057**

**In the Jharkhand High Court**

**Case No : Writ Petition (C) No. 2496 of 2002**

Md. Muslim Ansari

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

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**Date of Decision : 12-09-2005**

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation : (2006) 1 JCR 300**

**Hon'ble Judges : M.Y. Eqbal, J**

**Bench : Single Bench**

**Advocate : V. Shivnath, Birendra Kumar, Rekha Shankar, Anita Sinha and Sweetey Topno, for the Appellant; Manjul Prasad, for the Respondent**

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## **Judgement**

M.Y. Eqbal, J.—The petitioner seeks a direction upon the respondents particularly respondent No. 3, the Circle Officer, Ratu Anchal, Ranchi to accept cess and rent and issue rent receipts in respect of the lands appertaining to Khata No. 383, plot Nos. 718 and 496, Khewat No. 2 situated at village Pundag in the district of Ranchi.

2. Petitioner's case is that one Bara Lal Kandarp Nath Sahdeo, Ex-intermediary of Khewat No. 2, by a grant of soda hukum-nama in the year 1947, settled the land in question in favour of S.K. Sahamat and S.K. Ajmat of the said village and delivered possession of the said land to them. The said Sahamat and Ajmat, in their turn, executed a registered kabuliat dated 9.1.1947 in respect of the said land and came in possession of the same. Petitioner's further case is that on vesting of the zamindari under the Bihar Land Reforms Act, the ex-landlord submitted return showing the aforesaid two settles as raiyats. It is alleged that the petitioner being the sole eldest member of the family inherited the raiyati interest of the two settles in the year 1948. The ex-landlord created a Trust known as Chintamani Trust and all zamindari interests were given to the said trust. It is contended by the petitioner that the land was mutated in the name of his ancestors and their names were entered in Register-II and correction slips

were issued in the years, 1982-84 but for the reasons best known to the respondents no rent receipts were issued. Petitioner's grievance is that the respondents have raised claim over the land in question on the ground that the same vested in the State of Bihar.

3. The respondents, in their counter-affidavit, have dispute the genuineness of the registered kabuliat and the oral settlement and have also asserted that no rent receipts were issued from the years 1955 to 1982.

4. Petitioner's case of coming in possession over the land in question by virtue of the alleged settlement made in the year 1947 and their subsequent possession, have not been denied by the respondents in the counter-affidavit. Possession always follows title. The creation of jamabandi in favour of the ancestors of the petitioner can also not be disputed for the reasons that in the notice issued by the Circle Officer in Misc. Case No. 65/2002-03 creation of jamabandi has been accepted by the respondents. It further appears that in a proceeding initiated at the instance of Ananpurna Devi, a detailed report was submitted in Misc. Case No. 1 of 1985 by the Land Reform Deputy Collector, Ranchi which also, prima facie, supports the case of the petitioner. In my view, therefore, the matter needs consideration by the respondents in accordance with law before taking an action in the matter by passing reasoned order on the claim of the petitioner.

5. Since this Court, exercising jurisdiction under Article 226 of the Constitution of India, is not supposed to go into the question of the right, title, interest and possession of the parties with respect to immovable property, I direct the Additional Collector (Land Reforms), Ranchi to consider the claim of the petitioner after giving opportunity of hearing to both the petitioner and the respondents and take a decision by passing reasoned order within a period of three months from the date of production of a copy of this order.

6. Needless to say that the Additional Collector, before arriving at any decision, may also direct an inquiry by the Land Reforms Deputy Collector, Ranchi. The Additional Collector shall consider all the revenue documents like jamahandi register, correction slip, if any issued in favour of the petitioner, and other documents. Till such decision is taken by the Additional Collector, the land in question shall not be settled with any other person.

7. With the above observation and direction this writ application is disposed of.