
(2011) 02 JH CK 0002
In the Jharkhand High Court
Case No : W.P.C. No. 7873 of 2006

Md. Muslim

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 01-02-2011

Acts Referred:

Citation : (2011) 02 JH CK 0002

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

R.K. Merathia, J.—Heard the parties finally.

2. In this writ petition, the Petitioner has challenged the order contained in memo No. 3584 dated 18/11/2006, passed by the Deputy Commissioner, Palamau (Annexure3) and the order contained in memo No. 2185 dated 11/12/2006, passed by the S.D.O., Sadar, Palamau (Annexure-4).

3. It is submitted on behalf of the Petitioner that as the Petitioner was in possession as subtenant of the original allottee Md. Aslam Ansari (Respondent No. 5), the said orders could not be passed by the district administration for his eviction without giving opportunity to him and without taking recourse to law.

4. Mr. Manish Kumar, learned Counsel appearing for the Respondent No. 5, on the other hand, supported the impugned orders and submitted that after the land was allotted to him, he constructed shop in 1976 but when he got service in the police department, he gave it to his brother and from him the Petitioner got possession illegally and there is nothing to show that the shop was sublet to the Petitioner. He further submitted that the Petitioner is trying his political influence for allotment of the shop in his favour.

5. Mr. Abhay Prakash, learned Counsel appearing for the Respondent State and Municipality, submitted that a shop was allotted to the Respondent No. 5. There is no provision for subletting or giving the shop by the allottee to anybody else,

including any family member but the Respondent No. 5 illegally gave it to the Petitioner, on rent. He lastly submitted that as the Petitioner and Respondent No. 5, both have committed illegality, the municipality has taken a decision to get the shop vacated from both of them and advertise it for fresh allotment.

6. Neither Respondent No. 5 could show how he gave the shop to any other person nor the Petitioner could show as to how his occupation is legal. Prima facie, the Respondent No. 5 and the Petitioner, both have committed illegality.

7. In the circumstances, the Petitioner is directed to vacate and hand over the possession of the shop with the municipality within four weeks from today. The Municipality will then take steps strictly in accordance with law for allotment of the said shop, without any influence by anybody.

However, this order will not prejudice the parties in applying against the notice published by the Municipality for allotment of the shop.

With these observations and directions, this writ petition stands disposed of.