
(2004) 02 JH CK 0036

In the Jharkhand High Court

Case No : Writ Petition (C) No. 6609 of 2002

Mohan Hazra and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-02-2004

Acts Referred:

Santhal Pargana Settlement Regulation, 1939 — Section 3
Santhal Parganas Settlement Regulations, 1872 — Section 25

Citation : (2004) 2 JCR 257

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : B.B. Sinha and R.C.P. Sah, for the Appellant; Rajiv Ranjan Mishra, G.P. II and Manoj Tandon, for the Respondent

Final Decision : Dismissed

Judgement

Tapen Sen, J.—Heard Mr. B.B. Sinha, learned Senior Advocate for the petitioners; Mr. Manoj Tandon for the respondent Nos. 4 to 6 and Mr. Rajiv Ranjan Mishra, learned G.P. II for the State-respondents.

2. Petitioners, in the instant case, have prayed for quashing of the order dated 25.08.2002 as contained in Annexure 4 passed by the Commissioner, Santhal Pargana Division in Settlement Case No. 201 of 2000-2001, which was filed u/s 25 of the Santhal Pargana Settlement Regulation Act, 1872. By reason of the said application the petitioners had prayed for correction in the records of rights and made a prayer that an inquiry should be held afresh so that the matter may be inquired into by a competent authority who is involved in a Settlement Proceeding which is said to be going on. Upon perusal of the impugned order which has been sought to be challenged in the said Settlement Case, it is evident that the Gangtzer's Service Settlement operation had been completed in this District during the period 1929-35 and record of rights had finally been published. It is also evident that the instant application u/s 25 of the aforementioned Regulations was filed in the year 2000, i.e., after a lapse of

about 70 years. It is, also relevant to take note of the fact that fresh survey settlement operations are going on in the Division of Santhal Pargana when this application was filed. It is, therefore, evident that these petitioners are attempting to reopen a finally concluded matter which stood concluded 70 years ago. In the counter affidavit filed by the respondent Nos. 4 to 6, it has also been stated at paragraph 4 that the Gangtzer's Survey Settlement Operations was not only completed during 1929-35, but record of rights were also published that became final and conclusive proof of rights u/s 25 of the aforementioned Regulations. It has also further been stated that the Santhal Pargana Settlement Regulations 1939, was brought into effect after amending the earlier Settlement Regulations of 1872 by which 12 (twelve) months period was fixed from the date when the Regulations came into force for making an application for amendment etc. That Regulation came into force with effect from 21.12.1939, whereas the instant application has been filed not within the period of 12 (twelve) months, but after 70 (seventy) years. The provisions in relation to making an application within 12 (twelve) months is incorporated in the Santhal Pargana Settlement Record Revision Regulations, 1939 by Section 3 thereof which reads as follows :--

"3. Omission of certain entries from the record of rights.--Notwithstanding anything to the contrary contained in any law or in anything having the force of law in the Santhal Parganas District, a raiyat may, at any time within twelve months from the date on which the Regulation comes into force, make an application for the omission from his khatian of any entry showing that any second class ban land in his possession.

(2) Every application under Sub-section (1) shall be presented to the Deputy Commissioner and shall be in such form and shall contain such particulars as the State Government may, by notification, direct.

(3) On receipt of an application under Sub-section (2), the Deputy Commissioner shall fix a date for the hearing of the application and shall inform the landlord and the village headman of the contents of the application and of the date fixed for the hearing of the application.

3. That apart, some statements have been made in paragraphs 6 and 7, but none of these paragraph have been replied by the petitioners. However, considering the fact that more than 70 (seventy) years have passed and third party rights must also have come into existence in the meantime, therefore it would not at all be appropriate for this Court to give any directions in favour of the petitioner.

4. The writ petition is accordingly dismissed. There shall however, be no order as to costs.