

(2025) 11 JH CK 2007

In the Jharkhand High Court

Case No : Civil Miscellaneous Petition No. 1394 Of 2023

M/s Bharat Coking Coal Ltd

APPELLANT

Vs

Krishna Devi

RESPONDENT

Date of Decision : 26-11-2025

Acts Referred:

Constitution of India, 1950 — Article 227
Land Acquisition Act, 1894 — Section 6
Public Premises (Eviction of Unauthorized Occupants) Act, 1971 — Section 9
Evidence Act, 1872 — Section 114(g)

Citation : (2025) 11 JH CK 2007

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Anoop Kumar Mehta, Shubham Mahiya, Yogendra Prasad

Final Decision : Allowed

Judgement

Gautam Kumar Choudhary, J

1. Instant civil miscellaneous petition has been filed under Article 227 of the Constitution of India for quashing the order dated 04.08.2020 passed by Principal District Judge, Dhanbad in Civil Misc. Appeal No.40/2017 whereby and whereunder the order dated 26.06.2017 passed by the learned Estate Officer, BCCL, Koyla Bhawan, Dhanbad in Eviction Case No.18/2013 has been set aside passed under the provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter in short 'Act, 1971').

2. As per the case of the petitioner- Company, 18.56 acres of land, was acquired by the Government of Bihar for construction of house and office accommodation of the Coal Board vide Gazette Notification No.4843 dated 31.07.1964 (Exhibit 4). This land was handed over to BCCL vide letter dated 24.02.1983 (Exhibit 1). Later on, the Coal Board merged with BCCL vide order dated 24.03.1979. The Government published a declaration under Section 6 of the Land Acquisition Act, 1894 published at Page No.1771/1772 of Part II of Bihar Gazette.

3. On 24.02.1983, the office of Land Acquisition Officer delivered ownership and possession of 18.56 acres of land in favor of petitioner-Company, M/s BCCL. The compensations were already paid to the land holders in L.A. Case No.07/1965-66 as per the report of the Collector dated 23.09.1986 (Exhibit 3).

4. In order to remove the encroachment of public land on Plot Nos.11 and 12, area 23.27 decimals, Eviction Case No.18/2013 was initiated under the provisions of Act, 1971 in which the eviction order was passed on 26.06.2017.

5. The eviction order has been set aside by the order impugned mainly on the ground that BCCL had failed to establish that land purchased by the opposite party through the two sale deeds was the part of the public premises and was unauthorizedly occupied by her. It was also noted by the learned appellate Court that the land acquisition notification did not tally with the copy of the notification (Exhibit 2). It also disbelieved the valuation report (Exhibit 3) and report of payment of compensation (Exhibit 4).

6. On the other hand, it is argued by the learned counsel on behalf of the opposite party that the opposite party had acquired valid right, title and interest over the suit land on the basis of registered sale deeds executed by the successors of the recorded raiyat Gangu Mahto and Fagu Mahto vide registered Sale Deed No.8835 dated 18.12.2003 and Sale Deed No.156 dated 07.01.2005.

7. Having considered the submissions advanced, it appears to be somewhat strange that the appellate Court while hearing an appeal against the order passed by the Estate Officer for eviction under Section 9 of the Act, 1971 has entered into the question of title. The claim of title of the opposite party is based on sale deeds executed by the heirs and descendants of the original Raiyat which had been acquired way back in 1964 and compensation paid as per the Gazette notification and as per the report of payment of compensation adduced into evidence and marked as Exhibit 1 and 4. It has nowhere been disputed that the land in question had been acquired constitute part of the land already acquired. There is a presumption in favour of Gazette notification and payment of compensation in view of Section 114(g) of the Evidence Act. This presumption is rebuttable, but not in a proceeding under Act, 1971. Once the land has been acquired and party seeks to claim title, he can seek declaration of title in a Civil Court and not in a proceeding before an Estate Officer or in an appeal arising from his order.

8. From the fact that indisputably the land was part of the land acquired by the Government, the plea of title in the eviction proceeding cannot be raised, the impugned order is not sustainable and is accordingly, set aside.

Civil Miscellaneous Petition is allowed. Pending Interlocutory Application, if any, stands disposed of.