
(2008) 04 JH CK 0104
In the Jharkhand High Court

Nasiruddin Ansari and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-04-2008

Acts Referred:

Chotanagpur Tenancy Act, 1908 — Section 87(1), 87(2)

Citation : (2008) 3 JCR 41

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

N.N. Tiwari, J.—In this writ petition the petitioners have prayed for quashing the order of the Deputy Commissioner, Dhanbad whereby the said respondent has cancelled the long running Zamabandi standing in the name of the ancestors of the petitioners. The petitioners have also prayed for a direction on the respondents not to forcibly dispossess the petitioners from their Raiyati land measuring an area of 10.33 Acres of Khata No. 95. Plot No. 98 of Mauza-Bhelatand, Govindpur, Dhankad in the name of construction of Water Treatment Plant. It has been stated that the said land originally was Gair Abad Malik recorded in the Khewat of Shib Prasad Singh. The ex-landlord by virtue of Hukumnama dated 31.3.1944 had settled 10.33 acres out of the total area of 21.55 acres in favour of Md. Harkhu Mian, son of late Chiman Mian of village Kasitand, P.S. Govindpur. The said Harkhu Mian came in possession of the said land and also paid rent to the ex-landlord. After vesting of the estate under the provisions of the Bihar Land Reforms Act, 1950, the Zamabandi was opened in favour of the said Harkhu Mian by order dated 11.6.1959 passed in Misc. Case No. 15/6-61 and on payment of rent, receipt was granted to him. After the death of Harkhu Mian, the petitioners being the successor-in-interest came in possession of the said land. In the meanwhile there was a revisional survey operation in the district of Dhanbad. In the draft record of right prepared in the said survey the petitioner was recorded as raiyat in respect of the said land. The said entry was challenged by the State-respondents under the provisions of Section 87(1) of the Chota Nagpur Tenancy Act in C.N.T. Suit No. 5181/2001.

The said suit was dismissed by the judgment and decree dated 26.2.2004. The State respondents then preferred appeal against the said decree before the learned District Judge, Dhanbad being Misc. Appeal No. 77/2004. After hearing the parties, the learned District Judge has dismissed the said appeal by judgment and decree dated 15.2.2008. In spite of the said decree coupled with the entry in the revenue records including Zambandi and entry in the record of right in the name of the petitioners, the petitioner were dispossessed from the said land by the State-respondents and construction of Water Treatment Plant has been made by the respondents without paying any amount of compensation. Though possession has been taken, till date nothing has been paid to the petitioners.

2. By LA. No. 938/2008 the petitioners wanted to bring amendments in the writ petition by adding further developments like the decision of appeal and acquisition of land by the respondents and for appropriate reliefs in the writ petition.

3. In LA. No. 290/2008, the petitioners under the changed circumstances have prayed for a direction on the respondents to pay due compensation for the land forcibly acquired from them.

4. With the consent of the parties, while hearing the said interlocutory applications, the writ petition has also been taken up for hearing and the same are being disposed of by this order.

5. Counter affidavits have been filed on behalf of the respondent Nos. 2 and 6 stating, inter alia, that the Zamabandi of the land was opened in the name of the petitioners ancestors. The said land is Gair Abad Malik and the same vested in the State and became the land of the State. However, in subsequent counter affidavit the State has stated that they had filed suit u/s 87(1) of the Chota Nagpur Tenancy Act and they have also preferred appeal being Misc. Appeal No. 77/2004. However, it has been admitted that the petitioner's said land was ultimately acquired under the provisions of the Land Acquisition Act and compensation has been assessed and the amount of compensation has been deposited in the Office of the District Land Acquisition Officer, Dhanbad.

6. I have heard the parties and considered the facts and material on record. It is admitted by the respondents that Jamabandi with respect to the land was running in the name of the petitioners' ancestors. It has also an admitted fact that in the recent revisional survey the said land was recorded In the name of the petitioners.

The respondents had challenged the said survey entry in the suit filed u/s 87(1) of the CNT Act. The suit was dismissed. The respondents thereafter preferred appeal u/s 87(2) of the CNT. Act which was also dismissed. The respondents have admitted that in a tripartite meeting it was assured that after the disposal of the appeal in favour of the petitioner, the amount of compensation shall be paid to the petitioner. Now the appeal has been dismissed but the amount of compensation has not been paid to the petitioner. Possession of the land has

already been taken by the respondents.

7. In view of the above, this writ petition is disposed of directing the Deputy Commissioner, Dhanbad (respondent No. 3) to pay the amount of compensation to the petitioners for with, if there is no other legal impediment. The amount of compensation shall be paid to the land owners within a period of six weeks from the date of receipt/production of a copy of this order. If the amount of compensation is not paid within the said period, the same shall carry interest @ 10% per annum in addition to the statutory interest and other admissible statutory amount till the date of final payment.

In view of the above order, no separate order is passed in the aforesaid interlocutory applications. This order disposes of the writ petition as well as the said interlocutory applications.