
(2019) 01 JH CK 0149

In the Jharkhand High Court

Case No : Writ Petition (C) No. 612 Of 2018

Nem Narayan Singh @ Manbharan Singh And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 31-01-2019

Acts Referred:

Bihar Land Reforms Act, 1950 — Section 3
Constitution Of India, 1950 — Article 226

Citation : (2019) 0 FFLT(JHH) 51

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Dilip Kumar Prasad, Rajiv Anand

Final Decision : Disposed of

Judgement

This writ petition is under Article 226 of the Constitution of India.

The petitioner has sought for relief seeking a refraining order in constructing Model School over their raiyati land pertaining to Khata No.152 out of

Khewat No.7 which contains 4 plots i.e. 2221-0.65; 2224-1.17; 2225- 3.37; 2230-0.44, total 5.63 acres.

The grievance of the petitioners is that in the records of rights with khatian the name of the ancestors of the petitioners has found mentioned under the

column of 'name of land holder' and therefore the petitioners are having valid right and title over the land in question and as such before making any

construction over the said land, appropriate proceeding under the acquisition act ought to have been initiated but without resorting to the same the

decision to construct the school over the land in question is highly improper and illegal.

Learned counsel for the State-respondent has vehemently opposed the ground

and submission of the petitioners by referring to the counter affidavit wherein stand has been taken that the land in question is Gairmajurwa and it is vested with the State Government, therefore, there is no question of making acquisition of the land and since the land belongs to the State Government, therefore, the Government has taken decision to construct the Model School over the land in question.

Learned counsel for the petitioners in response has submitted by refuting the stand of the State respondent by showing the khatian and has submitted that there is no proceeding under Section 3 of Bihar Land Reform Act.

Having heard learned counsel for the parties and upon appreciation of their rival submission, the material which has been brought on record by the petitioners is khatian where the nature of land has been shown to be gairmajurwa malik, however, in the column of name of the holder, it has been reflected Aghnu Singh, basis upon which the petitioners are claiming the title, however, save and except, the said record of rights no other documents have been brought on record.

At the outset, learned counsel for the petitioners has submitted that he is not pressing the prayer made in the writ petition at this stage rather he has already made an objection against the encroachment proceeding initiated about the aforesaid land as would be evident from Annexure-7 and the authority may be directed to dispose of the same.

Upon this, learned counsel for the State-respondent has not objected to such prayer.

In view thereof and without expressing any opinion on the merits of the claim of the petitioners, the writ petition is disposed of directing the Circle

Officer, Kamdara to dispose of the representation as contained under Annexure-7, if not already disposed of, by passing a speaking order within a period of three weeks from the date of receipt of copy of the order which shall be presented by the petitioner within a week from the date of receipt of the copy of the order.

I.A. No.4204 of 2018 also stands disposed of.