

(2003) 12 JH CK 0075

In the Jharkhand High Court

Case No : WP (C) No"s. 2732, 2813, 2958, 3230 and 3325 of 2003

Parmeshwari Bai and Another, Ranchi Enterprises and Properties Ltd., Smt. Urmila Prasad, Birla Institute of Technology and Renuka Sinha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 23-12-2003

Acts Referred:

Urban Land (Ceiling and Regulation) Act, 1976 — Section 33, 34, 35, 5, 6

Citation : (2004) 52 BLJR 531 : (2004) 1 JCR 551

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : P.K. Prasad, V.K. Prasad, Pratyush Kumar, S. Chy., J. Mukerjee and I. Sinha, for the Appellant; Manjul Prasad, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—In these writ petitions involving common question of law have been heard together and disposed of by this common order.

2. The writ petitioners have challenged the notice and newspaper publication issued under the direction of respondent No. 2, Minister, Department of Revenue and Land Reforms, Government of Jharkhand, Ranchi calling upon the petitioners to appear on the date fixed for hearing in the land ceiling cases pending against them before the competent authority under the provisions of Urban Land (Ceiling and Regulation) Act, 1976

3. In WPC No. 3230 of 2003, petitioner"s case is that after coming into force of the Urban Land (Ceiling and Regulation) Act, 1976 (in short the said Act) statement in terms of Section 6 of the Act was submitted and it was registered as U.L.C. Case No. 305/76. In that case a draft statement was published and the petitioner filed objection and the matter is pending before the competent authority. Similarly, case of the petitioners of other writ petitions is that their ceiling cases are also pending before the competent authority" for hearing and

final disposal. In the meantime respondent No. 2 issued impugned notice directing the petitioners to appear before him for final hearing and disposal of those cases.

4. The contention of the petitioner is that respondent No. 2 has absolutely no jurisdiction to entertain or hear any matter which is pending before the competent authority under the said Act.

5. In the counter-affidavit filed by the respondents the general stand taken is that most of the cases in three cities i.e., Ranchi, Jamshedpur and Dhanbad are pending since 1976 in the Court of competent authority. Due to this abnormal the purpose of the Act is being defeated and the persons concerned are suffering from severe harassment. The Government being the Revisional Authority has therefore called for the cases for hearing and disposal.

6. I have heard Mr. P.K. Prasad, learned counsel for the petitioners and Mr. Manjul Prasad, learned counsel appearing for the State.

7. After hearing the parties, the only question that falls for consideration is whether respondent No. 2, the Government in the Ministry of Revenue and Land Reforms in exercise of power under the said Act can hear and dispose of the proceedings pending before the competent authorities.

8. In order to answer this issue, I would like to refer some of the relevant provisions of the Act. Section 33 of the Act has the provision of appeal which provides inter alia that any person aggrieved by an order of the competent authority under this Act may prefer an appeal to such appellate authority as may be prescribed. Section 34 has the provision for revision which reads as under :--

"The State Government may, on its own motion, call for and examine the records of any order passed or proceeding taken under the provisions of this Act and against which no appeal has been preferred u/s 12 or Section 30 or Section 33 for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of such procedure and such order with respect thereto as it may think fit :

Provided that no such order shall be made except giving the person affected a reasonable opportunity of being heard in the matter."

9. Section 35 empowers the State Government to issue orders and directions to the competent authority. Section 35 reads as under :--

"The State Government may issue such orders and directions of a general character as it may consider necessary in respect of any matter relating to the powers and duties of the competent authority and thereupon the competent authority shall give effect to such orders and directions."

10. From perusal of the aforesaid two provisions, it is manifest that the State Government exercising power of revision even suo motu call for and examine the record of any order passed or proceeding taken under the provisions of the Act

and against which no appeal has been preferred. Section 34 has two points. It firstly empowers the Revisional authority to suo motu call for the record and examine the record to any order passed in the case by the competent authority. The Revisional authority is also empowered to suo motu call for the proceeding in which even no order was passed and to take up the proceeding and dispose of the same. However the proviso requires that when the Government takes the matter in suo motu revision, such a person who is likely to be affected should be afforded opportunity of hearing. Section 35 of the Act further empowers the State Government to issue orders and directions to the competent authority relating to his power and duties and the competent authority shall give effect to such orders and directions.

11. Reading Sections 34 and 35, I have no doubt in my mind in holding that if the State Government call for the record of pending proceedings and hear the matter after giving reasonable opportunity of hearing to the persons who may be aggrieved by the order that may be passed by the State Government.

12. It has not been disputed by the petitioners that Land Ceiling cases have been registered in 1976 and number of cases are pending before the competent authorities of different districts for the last more than 26-27 years. If the State Government take up the matter and decides the proceedings, no prejudice would be caused to the petitioners.

13. Having regard to the facts of the cases and the provisions of law referred to hereinabove, I do not find any reason to interfere with the impugned notice issued by respondent No. 2 for the disposal of land ceiling proceeding. All these writ petitions are accordingly, dismissed.