

(2019) 02 JH CK 0045

In the Jharkhand High Court

Case No : Writ Petition (C) No. 6241 Of 2018, Writ Petition (C) No. 6242 Of 2018

Ram Ayodhya Singh And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 28-02-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 02 JH CK 0045

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : S.K. Sharma, Ashok Kr. Yadav, Vineet Prakash, Shyam Sundar, Amarendra Kumar

Judgement

1. Both the writ petitions since having the common cause and same issues and as such the same have been heard together and are being disposed of by this common order.
2. The writ petitions have been filed praying therein to restrain the respondents from cancelling the order of mutation passed by Circle Officer, Jamshedpur in Mutation Case No.110/M/2017-18 [W.P.(C) No.6241 of 2018] and Mutation Case No.109/M/2017-18 [W.P.(C) No.6242 of 2018].
3. The ground urged by the petitioners that although at the time of filing of the writ petitions on apprehension the writ petitions was filed since the authorities have made up their mind to cancel the mutation but that apprehension has become true when the notices have been issued on 29.01.2019 as contained in Letter No.239 so far it relates to W.P.(C) No.6241 of 2018 and Letter No.241 which relates to W.P.(C) No.6242 of 2018.
4. Mr. S.K. Sharma, learned counsel appearing for the petitioners submitted that there is no difficulty in making reply as has been directed vide notice dated 29.01.2019 but only the question is that when there is already direction upon the Circle Officer by the Department of Revenue, Registration and Land Reforms and

Additional Collector, East Singhbhum, Jamshedpur, there is no chance of any fair enquiry.

5. Mr. Shyam Sundar Pd. Kushwaha, learned A.C. to G.A. IV and Mr. Vineet Prakash, A.C. to S.C. (L & C) have jointly submitted that the notices are under challenge, therefore, the same may not be interfered with by this Court sitting under Article 226 of the Constitution of India since the matter pertains to the factual aspect which is to be decided by the concerned authority.

6. So far as the submission of the petitioner pertaining to direction issued by the Department of Revenue, Registration and Land Reforms and the Additional Collector, East Singhbhum, Jamshedpur, their submission is that the authority may be directed to take independent decision without being prejudiced with the said direction.

7. This Court has passed order on 05.02.2019 in W.P.(C) No.6242 of 2018 and directed the State respondents to file counter affidavit and an interim order was passed to maintain the status quo.

8. Learned counsel for the State-respondent have submitted that the statement of facts has been received, however, they have submitted that since it is only a show cause notice, therefore, the writ petitions may be disposed of directing the petitioners to present their case before the Circle Officer, Jamshedpur raising the entire issues.

9. This Court after hearing learned counsel for the petitioner is of the view that the show cause notices are under challenge whereby and whereunder although there is reference of letter No.56 dated 04.01.2018 and Additional Collector, Purvi Singhbhum East, Jamshedpur as contained in Letter No.72 dated 10.01.2019 whereby and whereunder it has been referred that the land in question is Anamad Bihar Sarkar and on that reason the direction has been issued by the aforesaid authorities to cancel the mutation.

But once the notices have been issued upon the petitioners by the Circle Officer, the petitioners are supposed to defend themselves disputing the aforesaid aspect on the matter pertaining to the reference related to Anamadi, Government of Bihar or the other factual dispute, therefore, the factual dispute is to be adjudicated and hence, at this stage, since only show cause notices have been issued, therefore, it would be just and proper to dispose of the writ petition by directing the petitioners to submit their reply before the Circle Officer, Jamshedpur raising the entire issues by filing appropriate reply within a period of three weeks from the date of receipt of copy of the order.

10. The Circle Officer, Jamshedpur shall take decision in accordance with law after providing an opportunity of hearing to the petitioner and other affected parties, if any, and after scrutinizing the relevant documents pertaining to the land in question shall take decision within a period of six weeks from the date of receipt of copy of the order.

11. Since this Court after taking into consideration the reference of direction in the notices dated 29.01.2019, ad-interim order was passed on 05.02.2019 and since the writ petitions are being disposed of, it will be appropriate, just and proper to direct the authority to maintain status quo till the final decision to be taken by the Circle Officer as directed hereinabove.

12. It is made clear that the order shall be passed by the Circle Officer within the period stipulated and in no case later than that, since interim order is operating.

13. In view thereof, the writ petition is disposed of.