
(2020) 03 JH CK 0007

In the Jharkhand High Court

Case No : Writ Petition (C) No. 6972 Of 2006

Ram Parvesh Thakur And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 04-03-2020

Acts Referred:

Citation : (2020) 03 JH CK 0007

Hon'ble Judges : Rongon Mukhopadhyay,J

Bench : Single Bench

Advocate : Amaresh Kumar, Sameer Saurabh

Final Decision : Dismissed

Judgement

1. Heard the parties.

2. In this writ application, the petitioners have prayed for quashing of the order dated 7.3.2006, passed by the respondent no. 2 in Misc. Revision Case

No. 16 of 1999, by which the respondent no. 2 has cancelled the Jamabandi of 17 decimals out of 85 decimals of land.

3. The factual aspects of the case is that respondent no. 4 had filed an application for opening the demand of the lands situated in plot no. 81, village-

Polda, P.S. Hariharganj, District-Palamau, comprising an area of 17 decimals before the S.D.O., Chhatarpur on 13.9.1994.

4. The case of the petitioners is that land of Khata No. 1, plot no. 81, area 85 decimals was settled by the then Jamindar Badri Narayan Jha on 30th

March, 1361 and issued Jamindari rent receipt in the name of Sarju Thakur (father of the petitioners). The nature of land was Bakast. The name of

Sarju Thakur appeared in the return filed by the Jamindar at the time of vesting under the Bihar Land Reforms Act, 1950. After settlement, the father

of the petitioners remained in possession and after his death, the petitioners came in possession and regularly paid rent to the State Government. In

Bhujharat Register, it was mentioned that the land was in possession of Sarju Thakur. After thorough enquiry, demand was opened by the revenue

authorities in the name of Sarju Thakur. An application was filed by the respondent no. 4 claiming that 17 decimals of land in plot no. 81, Khata No. 1

was settled in his favour and the said case was registered by the Circle Officer as Misc. Case No. 79 of 1994-95. After hearing the parties, the Sub

Divisional Officer dismissed the application vide order dated 27.09.1997. The matter was referred to the Additional Collector, who affirmed the order

of the Sub Divisional Officer, vide order dated 24.11.1998. Being aggrieved, the respondent no. 4 had preferred Misc. Revision No. 16 of 1999 before

the Commissioner, Palamau and vide order dated 7.3.2006, the Jamabandi of 17 decimals of land in favour of the petitioners was cancelled and

demand was directed to be opened in favour of respondent no. 4 with respect to the said 17 decimals of land.

5. A counter affidavit has been filed by the respondent no. 4 in which it has been stated that the land in question was settled in favour of respondent

no. 4 by the ex-landlord on 13 Magh 1361 and Jamabandi was opened in the name of respondent no. 4 since 1956-57 and rent receipts were also

issued.

6. It has been stated that settlement in the name of father of the petitioners is doubtful since his name has been entered in the Khatian in a different

ink and different handwritings. The respondent no. 4 has also stated that the Revenue Officer has committed a mistake in opening a demand in the

name of the petitioners as well as respondent no. 4 and the same was sought to be rectified as the respondent no. 4 was in possession of the lands

since 1954. It has further been stated that the petitioners had filed a revision before the Board of Revenue, which however was withdrawn on

8.9.2006. Pursuant to the impugned order, a correction slip has also been issued in the name of respondent no. 4.

7. In the counter affidavit filed by the respondent nos. 1 and 2, it has been stated that there was a dispute between the petitioners and respondent no. 4

in respect of 17 decimals of land out of 85 decimals of land in plot no. 81, under Khata No. 1. It has further been stated that respondent no. 2 did not

pass any order for cancellation of Jamabandi but he had only reduced the area of Jamabandi, which was running in the name of the petitioners.

8. Learned counsel for the petitioners has submitted that the Commissioner did not appropriately consider the documents exhibited by the petitioners. It

has been submitted that the application which was filed by the respondent no. 4 was after 38 years since the opening of Jamabandi in the name of

father of petitioners and the same was hopelessly barred by limitation.

9. Learned counsel for respondent no. 4 has countered the arguments advanced by the learned counsel for the petitioners by stating that the

petitioners have suppressed the fact in this writ application that they had earlier moved before the Board of Revenue but the said case was

withdrawn. It has further been submitted that the Sub Divisional Officer and the Additional Collector did not properly consider the documents adduced

by the respondent no. 4 and since the impugned order does not relate to a case of cancellation of Jamabandi asitis only confined to restricting/reducing

the area of Jamabandi, no interference is necessitated by this Court.

10. The order of the Sub Divisional Officer reflects that respondent no. 4 had submitted photo copy of rent receipts, certified copy, Jamindari rent

receipts etc. to substantiate his contention that he was paying rent for 17 decimals of land and the recent survey also established his possession.

However, on a misconception that rent was being paid by the petitioners with respect to the land in question, the application preferred by the

respondent no. 4 had been rejected by the Sub Divisional Officer and affirmed by the Additional Collector.

11. It is to be borne in mind that Jamabandi opened in the name of the petitioners has not been cancelled. The impugned order dated 7.3.2006, passed

by the Commissioner, clarifies the factual aspects, which were never taken up either by the Sub Divisional Officer or the Additional Collector. It

states that the settlement, which was made by erstwhile Jamindar in favour of respondent no. 4, was earlier to the settlement made in favour of the

father of the petitioners. Respondent no. 4 has also deposited rent since 1956-57 for an area of 17 decimals of land situated in Khata No. 1, Khesra

No. 81. The possession of respondent no. 4 was also ascertained over the said plot of land by virtue of last survey settlement. It was therefore

ordered that Jamabandi of land over 85 decimals of land in favour of the

petitioners was reduced to 68 decimals. The Commissioner has therefore corrected an error while maintaining the earlier Jamabandi continuing in the name of the petitioners and respondent no. 4 by reducing the area as indicated above.

12. Since the impugned order passed by the Commissioner, Palamau Division, respondent no. 2, does not suffer from any illegality in view of what has been stated above, I am not inclined to entertain this writ petition, which is accordingly dismissed.