
(2019) 07 JH CK 0079
In the Jharkhand High Court
Case No : Writ Petition (C) No. 6072 Of 2016

Ram Prasad Mahto

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 01-07-2019

Acts Referred:

Bihar Land Reforms Act, 1950 — Section 4(h)

Citation : (2019) 07 JH CK 0079

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : J. Franklin Toppo

Final Decision : Dismissed

Judgement

None appears for the petitioner.

Mr. J. Franklin Toppo, learned S.C. (L&C) III appearing for the Respondent-State is present.

This writ petition has been listed under the heading 'For orders ("with defects").

It is evident from the order dated 16.12.2016, passed by the Jt. Registrar (Judicial) I/c and the order dated 02.03.2017 passed by the Registrar General of this Court that two weeks' time was granted to the learned counsel to remove the defects, but the defects, as has been pointed out by the office has not been removed, therefore, the matter has been listed on board before this Court.

This Court after going through the report submitted by the Stamp Reporter has found that certain documents are required. The matter is of the year 2016, wherein, pleadings are complete, therefore, the matter has been decided to be disposed of.

In view thereof, the defects, as has been pointed out by the office is hereby ignored.

The matter is taken up for hearing.

The relief sought for, in this writ petition is for issuance of direction upon the respondents not to interfere with the possession of the petitioner and taking any steps for the purpose of any transfer of land pertaining to the petitioner given in Khata No. 47, Plot No. 1496 and 1914, comprising of an area of 2.55 and 3.42½ acres respectively situated in Village Dubalia, P.S. Pithoria, Thana No. 48, District-Ranchi, for settling the same for the purpose of opening of Anand Lok Hospital at Dubalia, or to any person including that of the respondent no. 4, Dev Kumar Saraf.

The brief facts of the case, as per the pleading made in the writ petition is that the petitioner is in possession of the land by virtue of raiyati settlement made in his favour by way of Sada Hukumnama dated 08.01.1949 and accordingly, he is plowing the land for the purpose of cultivation. After vesting intermediary interest of the petitioner, the ex-landlord filed return in Form 'K' and during the spot enquiry, the settlees were found in peaceful possession of the land in question and, as such the State of Bihar has recognized them as 'Raiyat' and accordingly, they paid rent to the State in their names. The aforesaid land has been transferred in favour of the petitioner by one Bindeshwari Sahu, son of late Surendra Nath Sahu and thereafter, the petitioner has purchased the land in question by virtue of registered Deed of Sale dated 14.02.1991 and he is in peaceful possession after getting the land mutated vide order, passed in Mutation Case No. 80 2 R 27/1990-91.

The ground has been stipulated in the pleading that the Revenue authority has got no jurisdiction to look into the right, title as also the peaceful possession of the petitioner, but having done so, the instant writ petition has been filed.

Mr. Toppo, learned State counsel on the strength of the counter affidavit has submitted by referring to various paragraphs, wherein, inter alia, it has been stated that the said land has been recorded in the record of rights, as 'Gair Mazarua Khas' and the nature of the land has been shown to be 'Parti Kadim'. The Jamabandi of the land in question standing in the Register-II has been deleted vide order dated 23.07.2008, passed in Miscellaneous Case No. 23 of 2007-08, 24 of 2007-08, 26 of 2007-08 and 27 of 2007-08 (Annexure-A series to the counter affidavit). It has further been stated that the proposal for lease settlement over the land in question for construction of Anand Lok Hospital at Dulalia for 30 years has been sent to the State Government through the Commissioner, South Chhotanagpur Division, Ranchi in the light of the instruction contained in the Revenue Department's letter No. 4306/Rev., dated 24.10.2014 by the Deputy Commissioner, Ranchi (Respondent No. 3) vide order, passed in Case No. 5/2016-17. The further averment has been made that in the record of rights, the deletion has been made in pursuance to the provision as contained in the provision of Section 4 (h) of the Bihar Land Reforms Act, 1950 and therefore, it has been submitted that the recommendation for settlement of the land by way of initiating a proceeding in Case No.5/2016-17 will take its own course but

the fact hereunder is that the question of title of the petitioner, which is being disputed by the State Respondents in the counter affidavit and therefore, the nature of relief, as has been sought for in the instant writ petition, may not be entertained under the writ jurisdiction.

Having heard the learned counsel for the respondents, gone across the pleading made in the writ petition as also the counter affidavit, wherefrom, it is evident that the writ petition has been filed by the petitioner restraining the respondents not to disturb the peaceful possession of the land in question, while in the counter affidavit, the title of the petitioner is being disputed on the ground that the entry made in Register II has been deleted vide order dated 23.07.2008, passed in Miscellaneous Case No. 23 of 2007-08, 24 of 2007-08, 26 of 2007-08 and 27 of 2007-08 (Annexure-A series to the counter affidavit).

In view of such stand, having been taken by the State Respondents in the counter affidavit, the question of title is to be decided by the competent court of civil jurisdiction, but, so far as the settlement of the land is concerned, as has been stated in the counter affidavit that a proceeding has already been initiated in Case No.5/2016-17, this Court is of the view that the same is to be dealt with by the competent authority i.e. the Respondent no. 3, since for its adjudication notice has already been issued to the petitioner.

In view of the aforesaid aspect of the matter and since the dispute of title over the land in question is involved in this writ petition, therefore, this Court refrains itself in passing a positive order in favour of the petitioner. In view thereof, this writ petition fails and it is, accordingly, dismissed.

However, the Deputy Commissioner, Ranchi (Respondent No. 3) is directed to hear the petitioner in Case No. 5/2016-17, if it has not already been decided.