
(2001) 06 JH CK 0014
In the Jharkhand High Court
Case No : CWJC No. 3120 of 1999

Ramji Beldra

APPELLANT

Vs

B.C.C.L. and Others

RESPONDENT

Date of Decision : 12-06-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4

Citation : (2001) 06 JH CK 0014

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : M. Tiwary, for the Appellant; A.K. Mehta, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—In this case, the petitioner has challenged the appellate order dated 20th March, 1998 passed by the learned District Judge in Misc. Appeal No. 24/95 and analogous appeals. They were preferred against common order dated 6th June 95 as was passed by the Estate Officer of BCCL in case No. 385/93 and analogous cases, whereby and whereunder the original authority directed the petitioner and others to vacate the premises, in question, and to deliver vacant possession to respondent M/s. BCCL.

2. According to the petitioner, the land measuring 1 Bigha 10 Khatas was settled by ex-landlord in favour of Shri Nil Nath Narayan Singh by Sada Hukumnama executed prior to 1947. In pursuance of said settlement, one Tahlul Beldar took possession of the land and remained all along till his life time and is now being in possession of the descendants, including the petitioner.

3. Grievance has been made that the Respondent Estate Officer, BCCL in the original Case No. 685/95 never issued formal notice, as required u/s 4 and passed order behind back of the petitioner.

4. So far as appellate order dated 28th March. 1998 passed by the learned

District Judge. Dhanbad in Misc. Appeal No. 24/95 is concerned, the counsel for the petitioner submitted the appellate Court had not allowed the petitioner to lead further evidences to establish his right and title over the land in question.

5. There is nothing on the record to suggest that the petitioner wanted to lead certain more evidence before the appellate forum and was debarred. Though in Paragraph-16 to the writ petition, it is stated that the land was never acquired not being on ex-colliery as such after nationalisation of coalmines, the same cannot be said to have been transferred/vested within the Union of India/BCCL. This Court cannot give any finding on such bald statement, as at Paragraph-6, the petitioner has stated that the petitioner is in possession of the rent receipts and after vesting of the Estate, the State of Bihar recognised Tahlu Beldar as the original rightful owner.

6. The petitioner has enclosed a number of evidences with the writ petition and his counsel relied on them to suggest that the petitioner is the original owner of the land. However, the aforesaid disputed question of fact cannot be determined by this Court under Article 226 of the Constitution of India, as it requires appreciation of evidences by a competent Court of law.

7. From the appellate order, it will be evident that the petitioner had been declared to be encroacher in absence of any declaration of right and title and it was held that the land, in question, vested with the Union of India and, in effect, with M/s. BCCL.

8. Having regard to the facts and circumstances, while this Court is not inclined to interfere with the appellate order dated 20th March. 1998, give liberty to the petitioner to move before a Court of competent jurisdiction for declaration of right, title and possession, if he so chooses.

9. The writ petition is dismissed.

10. Writ petition dismissed.