

**(2025) 07 JH CK 1226**

**In the Jharkhand High Court**

**Case No :** Contempt Case (Civil) No. 316 Of 2023 With W.P. (C) No. 4561, 4564, 4627, 4629 Of 2015

Ravi Sinha

APPELLANT

Vs

Mr. Rahul Kumar Sinha

RESPONDENT

**Date of Decision :** 08-07-2025

**Acts Referred:**

Code of Civil Procedure, 1908 — Order 1 Rule 10(2)  
Chhotanagpur Tenancy Act, 1908 — Section 46, 71A

**Citation :** (2025) 07 JH CK 1226

**Hon'ble Judges :** Gautam Kumar Choudhary, J

**Bench :** Single Bench

**Advocate :** Ritu Kumar, Samavesh Bhanj Deo, Raj, Prashant Kr. Rai, Shubham Mishra, Alok Anand, Asif Khan

**Final Decision :** Dismissed

## Judgement

Gautam Kumar Choudhary, J

1. All these writ petitions arise out of the common orders passed in SAR Case No. 105/2008 dated 17.11.2008 by the Commissioner, South Chhotanagpur Division, Ranchi whereby and whereunder, the order of restoration of land passed under Section 71A of the Chhotanagpur Tenancy Act (for short CNT Act) against the petitioners by the Special Officer in SAR Case Nos. 646/2005-06, 647/2005-06 and 648/2005-06 and the appellate order therefrom has been affirmed.

2. The land in question appertains to different part and parcel of Plot No. 461, Khata No. 98, Thana No. 225, Shivpuri Colony, Hinoo, Doranda, Ranchi.

3. As per the case of the petitioners, the land was purchased by different sale deeds executed in the year 1986 and 1988 and 1989 by Yadulal Das, Hiran Kumar Das Gupta and also by one Jagdish Prasad Singh. The details of the said sale deeds executed are as under:

A. Late Rama Sinha and Smt Sudha Sinha had purchased the land through

registered Sale deed dated 16.10.1986 from Sri Hiranaya Kumar Das Gupta and Yadulal Das (Annexure-1).

B. Late Sachidananda Sinha had purchased the land through registered Sale deed dated 16.06.1988 from Sri Yadulal Das (Annexure-2).

C. Late Rama Sinha and Sudha Sinha had purchased a land through registered Sale deed dated 20.01.1989 from Sri Jagdish Prasad Singh (Annexure-3).

4. The main contention of the petitioners is that the land in question was settled by Sada Hukumnama sometime in the year 1941 to the vandors of the petitioners, and the restoration was initiated after more than 50 years and accordingly, barred by the ratio laid down by the Hon'ble Supreme Court in the cases of *Situ Sahu and Ors. V. State of Jharkhand* and *Ors. (2004) 8 SCC 340*, *Jai Mangal Oraon V. State of Jharkhand & Ors. (2004) 8 SCC 340*.

5. It is further submitted that the petitioners had died during pendency of SAR Cases and the order impugned order of demolition passed by the Circle Officer is against the dead persons. Rama Sinha, mother of Ravi Sinha died on 22.11.2011 (Annexure-5).

6. It is further argued that as per the impugned order passed by the appellate court, passed in the restoration case, there is a specific reference to a building which has been referred to in the order of restoration passed by the SAR officer, and direction made for its demolition. None of the Court below considered the provision as contained in Proviso (ii) to Section 71 A of the CNT which provides that where the Deputy Commissioner is satisfied that transferee had constructed a substantial structure or building on such holding or portion thereof before coming into force of the Bihar Schedule Area Regulation, 1969, he may notwithstanding any provision of the Act validate such transfer where transferee either makes available to the transferer an alternative holding or portion thereof as the case may be or of the equivalent value of the vicinity or paid adequate compensation.

7. It is further argued that the nature of land is in a busy urban area and there was a residential house on the plot in question and therefore, it partook a character of homestead to which CNT Act will not apply. In the said deed executed in favour of the petitioner-Rama Sinha, there is a specific reference to the building constructed on the said plot.

8. It is further argued that the father of the respondent no. 7 namely Mahadeo Oraon has himself witnessed in the sale deed which will be apparent from Annexure-1. In all the sale deeds, Mahadeo Oraon had signed as a witness. This goes to show that he was aware about the settlement of land in favour of the vender.

9. Lastly, it is argued that there is no order of restoration in favour of the intervener and he had not appeared at earlier stage and the restoration was finally ordered in SAR case in 2008 in favour of respondent no. 7 who has not

appeared before this Court to contest the writ petition.

10. Learned counsel appearing for the respondents submits that so far as the intervener applicant is concerned, he was impleaded in the petition vide order dated 04.04.2025 passed by this Court in which has come that half share of land in question was apportioned in the share in Original Suit No. 767 of 2017 and, therefore, he is not a rank outsider but has a subsisting interest in the suit property. On principle it is urged that when it comes to eviction matter, any co-owner can pursue an eviction case.

11. On the point of limitation, it is submitted that the transfer of land in favour of the petitioners was made sometimes in 1986, 1988 and 1989, whereas the restoration case was filed in the 2005-06 and, therefore, it was much within 30 years. Therefore, the ratio laid down in *Situ Sahu* (supra) will not apply in this case.

12. Further, so far the vendor of the petitioners is concerned, he is Yadulal Das in two of the sale deeds and in one of the sale deeds. Yadulal Das claims that the land was settled in his favour by the ex-landlord in 1941, however, the date of settlement has not been mentioned and Sada Hukumnama has not been brought on record.

13. With regard to the existing residential house from the suit land, it is argued that the plea as taken in para-42 of W.P. (C) No. 4564 of 2015 is palpably false and misleading. There is no building structure on the said plot and further, the petitioners do not reside in it which will be evident from the fact that the online Jamabandi Register has been annexed with the counter affidavit as Annexure-A Series. From this it will be evident that there exists a plot of land measuring an area of 6 Katha under Plot No.465, Khata No. 218, Mouza Hinoo, Anchal Argora on which stands a house of Smt. Rama Sinha, photographs have been enclosed with the counter affidavit. Further, there is another separate plot in the name of Alok Kumar Sinha measuring 5 Khata and 6 Chhatak under Plot No. 415 and the mutation has been made in his favour. Factually, it is not correct to assert that the petitioners were living in the said house constructed over it.

14. It is further submitted that the death of Alok Kumar Sinha took place after passing of the order in revision and the impugned notice of the Circle Officer has already been withdrawn vide Annexure-A of the counter affidavit filed by the respondent State.

15. It is further contended that it is specifically pleaded in para-25 of the writ petition (W.P.(C) No. 4564/2015) that the mother (deceased) of the petitioner had appeared and contested in SAR Case No. 647/2005-06 and, therefore, it cannot be said that the principle of natural justice has been violated and she was not heard and was dead at the time of passing of the revision.

16. In reply, learned counsel for the petitioners submits that although it is pleaded that there was forgery in the signature appearing on the sale deeds but

the respondents at no point of time had moved the Civil Court for cancellation of the sale deeds.

## FINDING

17. Law is settled that extraordinary writ jurisdiction is to be exercised sparingly on equitable for the cause of substantial justice. It has been held in *Sangram Singh v. Election Tribunal, Kotah, Bhurey Lal* 1955 SCC OnLine SC 21 : AIR 1955 SC 425 : 10 ELR 293

“14. That, however, is not to say that the jurisdiction will be exercised whenever there is an error of law. The High Courts do not, and should not, act as courts of appeal under Article 226. Their powers are purely discretionary and though no limits can be placed upon that discretion it must be exercised along recognised lines and not arbitrarily; and one of the limitations imposed by the Courts on themselves is that they will not exercise jurisdiction in this class of case unless substantial injustice has ensued, or is likely to ensue. They will not allow themselves to be turned into courts of appeal or revision to set right mere errors of law which do not occasion injustice in a broad and general sense, for, though no legislature can impose limitations on these constitutional powers it is a sound exercise of discretion to bear in mind the policy of the legislature to have disputes about these special rights decided as speedily as may be. Therefore, writ petitions should not be lightly entertained in this class of case.”

18. Petitioners in the present Case are aggrieved by the concurrent orders of restoration passed under Section 71-A of the CNT Act. This provision springs into action in cases of transfer of land of a member of scheduled tribe in contravention to the provision of Section 46 of the CNT Act.

19. There is no dispute, whatsoever that the land in question was recorded in the name of predecessor in interest of the private respondents, who were the members of scheduled tribe, whereas the transferees are not the members of the scheduled tribe. Thus, there is violation of Section 46 of the CNT Act.

20. In view of the concurrent findings, in the instant petition only two questions fall for the consideration of this Court. The first is if there was an inordinate delay in preferring the restoration application which cannot be said to be within reasonable time of 30 years as per the settled law. The second is if there existed a residential building on the plot constructed by the transferee before coming into force of the Bihar Scheduled Areas Regulation, 1969.

21. The claim of title of the petitioners is from vendors Yadulal Das, Hiranya Kumar Das Gupta and Jagdish Prasad Singh who executed the sale deeds in favour of the Petitioners in the years 1986, 1988 and 1989.

22. There is an absolute draught of pleading or evidence as to how the vendors acquired title over the land in question. It has been argued that land was settled way back in 1941 in favour of Yadulal Das. There is no evidence of the said settlement, followed by return having been filed by the ex-landlord, ranked

having been fixed, Jamabandi opened in the name. When admittedly land was appertaining to khatian recorded in the name of schedule tribe, it could not have been settled without relinquishment by the recorded tenant of his right the interest. In the absence of these evidence, to contend that original valid transfer of land took place, cannot and has been rightly not accepted by the learned courts below. The plea that it was barred by limitation therefore fails

23. So far the construction of residential building on this land in question is can the same cannot also be accepted for the reason, the falsity of the plea of the standing structure on the land in question is apparent from the photograph enclosed by the petitioners vide Annexure-2 in Contempt Case (C) No. 316 of 2023, wherein there is no structure but a hut. However, in the main writ petition, it has been pleaded that there is building structure and the entire family were residing in it.

24. Lastly, there is no merit in any the plea that impugned order had been passed against the dead person. It has been rightly argued by the counsel on behalf of the respondent that in para-25 of the writ petition is specific pleading has been made that mother of the petitioner had appeared and contested the restoration Case. In any case under petitioners cannot make a capital out of their own fault in preferring substitution petition.

Under the aforesaid facts and circumstance of the Case and the reasons discussed above, I do not find any merit in these writ petitions which are accordingly dismissed with cost.

In view of the dismissal of the writ petitions, contempt case no.416 of 2023 is dropped.

Pending I.A., if any, stands disposed of.