
(2011) 03 JH CK 0146

In the Jharkhand High Court

Case No : Writ Petition (C) No. 5769 of 2010

Saroj Devi and Others

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Citation : (2011) 03 JH CK 0146

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Judgement

D.N. Patel, J.—In pursuance of the order, passed by this Court dated 10th February, 2011, notice was issued upon Respondent No. 5 to be served by personal service, but, it is submitted by the counsel for the Petitioners that when the Petitioners approached Respondent No. 5 to serve the notice of this Court, Respondent No. 5 refused to accept the notice and to that effect counsel for the Petitioners has filed an affidavit on 1st March, 2011.

2. Counsel for the Petitioners submitted that originally Budhava Oraon was the owner of the property in question, who sold it to Ram Lakhan Sahu in the year, 1945 by registered sale deed. Thereafter, the property was transferred to Manju Singh in the year 1989 again by registered sale deed from Ram Lakhan Sahu. Thereafter, in the year, 1996, Manju Sinha transferred the property in question, by registered sale deed to Yugal Kishore Prasad and in the year, 20042005 again by registered sale deed the property was transferred from Yugal Kishore Prasad to Petitioner No. 1 i.e. Saroj Devi. It also appears from the facts of the case that there was one Title Suit No. 857 of 1965 instituted by Ram Lakhan Sahu against Budhava Oraon and their legal heirs. The said Title Suit was decreed on 6th January, 1966 in favor of Ram Lakhan Sahu. Thus, the property was transferred from Budhava Oraon to Ram Lakhan Sahu in the year, 1945 and the transfer of the property from Budhava Oraon to Ram Lakhan Sahu was approved by the concerned court by judgment and decree dated 6th January, 1966 in Title Suit No. 857 of 1965. It is also submitted by the counsel for the Petitioners that after

long lapse of time in the year 2004/2005, an application was preferred by Respondent No. 5 under the Chotanagpur Tenancy Act for possession of the property. This is absolutely time barred application and the fact that the Petitioners and their predecessors in title were not in possession of the suit property intermittently from Budhava Oraon and their legal heirs since 1945 onwards, has not been properly appreciated either by the Special Officer or by the Additional Collector or by the Divisional Commissioner.

3. Having heard counsel for the Petitioners, counsel for Respondent Nos. 1 to 4, and looking to the facts and circumstances of the case, it appears that there is a prima facie case in favor of the Petitioners. The Petitioners and their predecessors in title were in possession of the property in question since several decades. They have constructed their houses also. Balance of convenience is also in favor of the present Petitioners and if the stay, as prayed for, is not granted, it will cause irreparable loss to the Petitioners.

4. I therefore, stay the operation, implementation and execution of an order, passed in S.A.R. Case No. 432 of 2004/2005 dated 26th November, 2007, passed by the Special Officer, Scheduled Area Regulation, Ranchi as well as I also stay the operation, implementation and execution of an order, passed in S.A.R. Appeal No. 01R15 of 2008/09 dated 10th February, 2010, passed by the Additional Collector, Ranchi as well as I also stay the operation, implementation and execution of an order, passed in S.A.R. Revision Case No. 16 of 2010 dated 31st May, 2010, passed by the Commissioner, South Chotanagpur Division, Ranchi, during pendency and final disposal of this writ petition.

5. Rule.