
(2008) 03 JH CK 0065
In the Jharkhand High Court

Saryoo Prasad Roy

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 28-03-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 144

Citation : (2008) 2 JCR 585

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

Narendra Nath Tiwari, J.—In this writ petition the petitioner has prayed for a direction on the respondent No. 3 to proceed and to dispose of the Land Ceiling Case No. 3/07-08 filed by the petitioner u/s 16(3){ii} of the Bihar Land Reforms (Fixation to Ceiling Area and Acquisition of Surplus Land) Act, 1961 (hereinafter referred to as "the said Act") expeditiously. He has farther prayed for quashing the order dated 20.11.2007 passed by the Sub-Divisional Officer, Dhalbhum, Jamshedpur in exercise of purported power under Session 144, Cr PC.

2. The case of the petitioner is that he had filed the said land ceiling case before the DCLR, Dalbhum, East Singhbhum on the ground that he is the adjoining raiyat of the lands of Plot Nos. 147, 148 and 149 under khata No. 458 and Plot No. 143 under khata No. 456 of Mouza-Pardih, P.S.-Mango, Jamshedpur (East Singhbhum) and the said lands were transferred in favour of the respondent Nos. 10-12, who is neither a co-sharer not an adjoining raiyat He had deposited the amount of consideration with additional 10% thereof as required under the law.

3. On depositing the amount, the petitioner prayed for possession of the lands as provided u/s 16(3)(ii) of the said Act. The respondent No. 3 did not pass final order u/s 16(3)(iii) and only directed to maintain status quo. The dispute regarding possession of the lands gave rise to another proceeding u/s 144, Cr PC before the Sub-Divisional Officer, Dalbhum, Jamshedpur being Misc. Case No. 807/07. The said proceeding strangely concluded in unusual haste within a period of about two weeks.

4. The petitioner was restrained from going over the said lands ignoring the proceeding of land ceiling and provision of law u/s 16(3)(ii) of Ceiling Act. While deciding the said proceeding, the SDM overstepping his jurisdiction, unnecessarily made observations relating to the right, title and possession. Aggrieved by the said order, the petitioner has filed this writ petition.

5. Learned J.C. to S.C. (L & C) appearing on behalf of the respondents contested the petitioner's writ petition stating, inter alia, that the proceeding in the said land ceiling case is still pending before the Land Reforms Deputy Collector, Dalbhum, East Singhbhum, Jamshedpur (respondent No. 3). The petitioner has grievance that his application u/s 16(3)(ii) has not been finally disposed of. The petitioner should have shown urgency and prayed for expeditious hearing and disposal of his said petition before the D.C.L.R., before coming to this Court.

6. It has been further stated that the order passed u/s 144, Cr PC has got validity only for a period of 60 days which has already expired. It is also well settled that any observation made regarding the right, title and possession in a proceeding u/s 144, Cr PC is without jurisdiction. After expiry of 60 days, the said order also lost its force and the petitioner has no valid cause for challenging the said order which itself became lifeless.

7. I have heard learned Counsel for the parties and considered the facts and materials on record. Admittedly, the said land ceiling case is still pending before the Land Reforms Deputy Collector, Dalbhum, East Singhbhum, Jamshedpur (respondent No. 3). In view of the dispute regarding possession giving rise to another proceeding u/s 144, Cr PC, the petitioner should have prayed for early disposal of his petition u/s 16(3)(ii) of the said Act.

8. The petitioner can do so even now. The petitioner is given liberty to pray before that authority for expeditious hearing of his petition filed u/s 16(3)(ii) of the said Act. If such prayer is made, the concerned respondent shall consider the same and shall dispose of the application filed u/s 16(3)(ii) of the said Act without further delay preferably within a period of three weeks from the date of receipt/production of a copy of this order. So far as the prayer for setting aside the order passed in Misc. Case No. 80707 (Annexure-13) is concerned, I find substance in the submissions made by learned Counsel for the respondents that the same has already lost its force after expiry of 60 days and is of no legal effect. Any observation touching the issue of right, title and possession of the parties in respect of the land in question, being redundant, no further order is required for scrapping the same.

9. This writ petition is disposed of, with the said observations.