
(2016) 01 JH CK 0127
In the Jharkhand High Court
Case No : W.P.(C) No. 5033 of 2015

Satbir Singh Bhatia and Anr.

APPELLANT

Vs

State of Jharkhand & ors.

RESPONDENT

Date of Decision : 28-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 2 JBCJ 330 : (2016) 2 JLJR 556

Hon'ble Judges : Chandrashekhar, J.

Bench : Single Bench

Advocate : Vineet Prakash, Advocate, for the Respondent

Final Decision : Disposed off

Judgement

Chandrashekhar, J. - Aggrieved by notice dated 13.8.2015 issued by the Sub-Divisional Officer, Dhalbhum, the petitioners have approached this Court.

2. Raising a plea of jurisdiction of the Sub-Divisional Officer, Dhalbhum, the learned counsel for the petitioners submits that notice dated 13.8.2015 is patently illegal. It is stated that in respect of the property in question, Title Suit No. 156 of 1959 was instituted which was decreed on 25.1.1960. Execution Case No. 236 of 1962 however, stood dismissed on 30.08.2012 for non prosecution. The petitioners have been paying license fee to the Jamshedpur Notified Area Committee. In the aforesaid facts, it is contended that without order of a competent court, the Sub-Divisional Officer, Dhalbhum cannot issue notice for eviction of the petitioners.

3. A perusal of notice dated 13.8.2015 discloses that on a complaint received, the said notice was issued to the petitioners directing them to produce documents relating to the property on which they have constructed shops. Ordinarily against a show-cause notice writ petition is not maintainable. In "Union of India and Another v. Kunisetty Satyanarayana" (2006) 12 SCC 28, the Hon'ble Supreme Court has held as under:-

"14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well-settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, then the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

4. The learned counsel for the petitioners refers to representation submitted to the Sub-Divisional Officer and submits that xerox copies of the orders passed by the competent court were produced before the authority however ignoring the same the Sub-divisional Officer has issued notice dated 13.8.2015.

5. It is not in dispute that the father of the petitioner no.1 was one of the defendants in Title Suit No. 156 of 1959 and suit has been decreed against them. Though, the direction to produce documents relating to land within 24 hours cannot be sanctioned in law, considering the lapse of time, I am of the opinion that the petitioners should have first approached the Sub-Divisional Officer instead of rushing to this Court. It remains open to the petitioners to produce orders passed in Title Suit No. 156 of 1959 and Execution Case No. 236 of 1962 and other documents, within next four weeks. Needless to say, the authority concerned shall keep in mind, the orders passed and the proceeding initiated in the civil court.

6. The writ petition stands disposed of, with the aforesaid liberty to the petitioners.