

(2018) 10 JH CK 0037
In the Jharkhand High Court
Case No : Civil Review No. 57 Of 2016

Savitri Wala Devi And Ors

APPELLANT

Vs

M/S Bharat Coking Coal Limited Through The Chairman Cum
Managing Director And Ors

RESPONDENT

Date of Decision : 26-10-2018

Acts Referred:

Citation : (2019) 1 JCR 527

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Sudarshan Shrivastava, Amit Kumar Das

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and the Bharat Coking Coal Limited.
2. The order dated 29.09.2015 passed in W.P.(S) No. 2064 of 2014 for which review is being sought reads as under:-

Heard counsel for the parties.

2. Petitioner is in the third round of litigation apparently for the same relief. Herein, he has sought employment of his son Ranjeet Prasad Rawani and

Raju Rawani under the Land Looser Scheme on the grounds that his raiyati land measuring 15.07 acres at Mouza Jamdahi under different plot nos.

1286, 388, 926, 348 and 381 in the district of Dhanbad, has been acquired by Bharat Coking Coal Limited-respondent Company. He has also sought

quashing of the letter dated 23.12.2004 issued by the General Manager, Bharat Coking Coal Limited, Chanch Victoria Area Barakar, Burdwan,

Dhanbad (Respondent No. 6) where his prayer for compensation for acquisition of the land, has been rejected. He also has sought consideration of his

claim afresh in the light of the direction passed in WPS No. 2279/2005 Judgment dated 24.08.2009 (Annexure-12) passed by the learned Single Judge

in the second writ petition. He has again sought monetary compensation for the acquisition of the land.

3. From perusal of the judgment passed in WPS No. 2279/2005 (Annexure-12), it is evident that the learned Single Judge on the said occasion was not

satisfied to exercise its writ jurisdiction in the matter where petitioner was challenging the same letter dated 23.12.2004, being impugned herein also.

Petitioner had made the same claim that his own raiyati land measuring 15.07 acres in Mouza Jamdahi in the said plots was acquired by the

respondent Company, but no compensation was paid. It appears from perusal of the said judgment that the order dated 23.12.2004 was passed only

upon a direction passed in the first writ petition WPC No. 4792/2004 vide judgment dated 13.09.2004 upon the respondent authorities to reconsider the

petitioner's claim (Annexure-8). Learned Single Judge while passing judgment at Annexure-12, was of the view that the petitioner should obtain

appropriate order from the competent court of law for declaring his right and title over the lands under reference as the subject matter is apparently a

disputed question of fact. Petitioner seems to have again represented for employment under Land Looser Scheme vide Annexure-13 dated 20.12.2013

which the respondents have not entertained.

4. Chronology of facts which is noticed hereinabove, show that the present writ application is not maintainable when on the same plea and facts, this

Court in his previous writ petition WPS No. 2279/2005 had declined to exercise writ jurisdiction in the matter while making certain observations. The

present writ application therefore is an abuse of the process of Court and approach of the petitioner is deprecated in filing successive writ petitions.

The writ petition stands dismissed.

3. This court after narration of the history of two rounds of litigation apparently for the same relief, was of the opinion that the present writ petition is

not maintainable.

4. Learned counsel for the petitioner has in support of the prayer made specific reference to the statement made at para 12 and 13 of the review

petition, which is in context of the reasoned order dated 23.12.2004 passed by the General Manager, Bharat Coking Coal Limited, Chanch Victoria

Area- XII, BCCL in compliance of the order of the Writ Court passed in W.P.(C) No. 4792 of 2004. This reasoned order was the subject matter of

challenge in W.P.(S) No. 2279 of 2005. Learned Court had refused to exercise the jurisdiction while rejecting W.P.(S) No. 2279 of 2005 vide order at

Annexure- 7 dated 24.08.2009 to the present review petition. The order dated 24.08.2009 was also Annexure-12 to the writ application from which

the present review petition arises. Learned counsel for the petitioner submits that para 12 and 13 also find reference at para 16 of W.P.(S) No. 2064

of 2014. Para 16 of W.P.(S) No 2064 of 2014 reads as under:-

16. That, the petitioner states that the decision taken by the General Manager, Chanch Victoria, Respondent No. 6, as contained in Annexure- 10 to

this writ application, is baseless and holds to merit, as the concerned authority has passed his findings on Title Suit No.39 of 1956 and Title Suit No. 13

of 1957 in which a decree has been passed with regard to Plot No.48 and 419 of Khatiyani No.59.

It is further stated that the petitioner was not a party in Title Suit No. 39 of 1956 and Title Suit No. 13 of 1957 and said title suits were decided in

favour of the plaintiff therein vide judgment and decree dated 23.12.1961.

It is further stated that a challenge was made to aforesaid judgment and decree dated 23.12.1961 in Title Appeal No. 13 and 14 of 1962, which was

allowed in favour of the plaintiff/ respondent therein vide judgment dated 14.07.1965".

5. The same reasoned order dated 23.12.2004 (Annexure-4 herein) was subject matter of challenge again in W.P.(S) No. 2064 of 2014 from which

the present review petition arises. That is why W.P.(S) No. 2064 of 2014 was dismissed as not maintainable on the same plea and facts. When a

challenge to the order dated 23.12.2004 had attained finality in view of the judgment dated 24.08.2009 passed in W.P.(S) No. 2279 of 2005 in the

second round of litigation by the same petitioner, the issue could not have been reopened or re- agitated by the petitioner in successive writ petitions.

This was the sole ground to dismiss the plea by the impugned order dated 29.09.2015. The grounds which are being canvassed now on facts for

seeking review are not material or relevant for the purpose of supporting the challenge made to the order dated 29.09.2015. The Writ Court could not

have reopened the issue which has attained finality by virtue of adjudication

made in W.P. (S) No. 2279 of 2005. The grounds taken now therefore cannot be a basis to seek review of the order passed in W.P.(S) No. 2064 of 2014.

6. Learned counsel for the petitioner submits that evidently the order dated 24.08.2009 requires review as the respondents had suppressed material facts to mislead the Court.

7. Learned Counsel for the Respondents BCCL has opposed the prayer for review stating that no grounds thereof are made out. The writ petition was

rejected as not maintainable taking note of the fact that challenge to the same order dated 23.12.2004 on similar pleas and facts have been rejected by

the judgment dated 24.08.2009 Petitioner had filed the writ petition W.P.(S) No. 2064 of 2014 again after 5 years of passing of the judgment dated

24.08.2009. As such, his conduct speaks for himself.

8. On consideration of the entire facts and circumstances noted above and submission of learned counsel for the parties, this Court is of the view that

no grounds of review of the order dated 29.09.2015 has been made out. The writ petition was rejected as not maintainable when on the same plea and

facts this Court in the previous writ petition W.P. (S) No. 2279 of 2005 had declined the exercise the writ jurisdiction while making certain

observations in the matter. The present writ application was found to be an abuse of the process of the Court and the approach of the petitioner in

filing successive writ petition was deprecated.

9. As such, the instant review petition is dismissed being devoid of merit.