
(2003) 11 JH CK 0030
In the Jharkhand High Court
Case No : Writ Petition (C) No. 2732 of 2003

Smt. Urmila Prasad

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 12-11-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 4 JCR 665

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Binod Poddar, V.P. Singh, for the Appellant; Manjul Prasad, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—Heard Mr. Biren Poddar, learned counsel appearing for the petitioner, Mr. Manjul Prasad, learned counsel appearing for the State and Mr. V. P. Singh, learned counsel appearing for the RRDA.

2. The short question that falls for consideration is whether the impugned order passed by the Circle Officer rejecting the application of the petitioner for mutation of her name is justified in the facts of the present case. It appears that the petitioner purchased the land measuring 10 Kattas comprised within Khata 34 and 54 Plot No. 853 and 854 at Mauza Bariatu P.S. Ranchi by virtue of registered deed of sale No. 8283 dated 8.10. 1993 and came in possession of the same. After purchase, she filed an application for mutation in respect of the said land before the Circle Officer, Ranchi which was registered as Mutation Case No. 3785-R 27/2002-03. The Circle Officer on receipt of the application issued notices and called for report from the Halka Karamchari and Circle In-spector. The Halka Karamchari and Circle Inspector reported that the land in question is in possession of the petitioner but this land is also the subject matter of Vigilance Case Nos, 10 and 13. On the aforesaid ground, the Circle Officer refused to mutate the name of petitioner in respect of the said land.

3. The respondent-State in the counter affidavit has taken the stand that since the land in question is involved in a land scam case which is under investigation before the Vigilance Department, the application of the petitioner was rightly rejected by the Circle Officer.

4. Admittedly, after purchase of the said land, the petitioner came in possession of the same. The respondents have not disclosed the full description of the vigilance case in which this land is involved, nor there is any averment that the land in question has been seized or is under attachment by the order of the competent Court of law. It is well settled that mutation does not create any right and title in the property. It is simply an evidence of possession over the land. I do not find any justification in rejecting the application of the petitioner for mutation particularly, when the petitioner is taking the risk of making construction on the land although the land is the subject matter of vigilance case. It goes without saying that if any adverse order is passed by a competent Court of law regarding the title of the petitioner over the land in question then the petitioner will not only be deprived of the land but also from any improvement made therein.

5. Taking into consideration, the entire facts and circumstances of the case, I am of the opinion that the Circle Officer has no jurisdiction to refuse mutation in respect of the land in question.

6. For the aforesaid reason the said application is allowed and the impugned order passed by the Circle Officer is set aside. The Circle Officer is directed to pass appropriate order for mutation of the petitioner's name.