

(1987) 05 PAT CK 0011

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 434 of 1980 (R)

Srimati Amrit Kumari

APPELLANT

Vs

The Deputy Commissioner, Ranchi and Others

RESPONDENT

Date of Decision : 13-05-1987

Acts Referred:

Chotanagpur Tenancy Act, 1908 — Section 71A

Ranchi District Tana Bhagat Raiyats Agricultural Lands Restoration Act, 1947 — Section 4

Citation : (1987) PLJR 1120

Hon'ble Judges : S.B. Sinha, J

Bench : Single Bench

Advocate : K.N. Prasad, Laljee Sahay, for the Appellant; Narayan Roy and Sunil Kumar Sinha, for the Respondent

Judgement

S.B. Sinha, J.—In this writ application, the orders dated 31.3.1980 as contained in Annexure-1 passed by respondent no. 1 and the order dated 3.7.1978 as contained in Annexure-5 passed by respondent no. 2 are in question. By reason of the aforementioned orders, respondent nos. 1 and 2 directed that the land in question which was auctioned for arrears of rent through Rent Suit case no. 372 R-8 of 1933-34 in terms of provisions of section 4 of Ranchi District Tana Bhagat Raiyats' Agricultural Lands Restoration Act, 1947 (hereinafter to be referred to as the said Act) be restored in favour of Respondent no. 3. As the facts are not much in dispute, it is not necessary to state the facts in detail. Suffice it to say that the predecessor-in-interest of respondent no. 3 was owner of a land. It is alleged that in the year 1935-36 there had been a movement wherein the Tanabhagats had resolved not to pay any rent in favour of the State of Bihar. By reason of the provisions of the said Act, if any land was sold in auction in pursuance of any freedom movement launched or believed to have been launched any time between the years 1913-42, the same may be restored.

2. The respondent no. 2 while passing the order as contained in Annexure-5 to the application purported to have taken into consideration the evidence on

record. It appears that the claim of the petitioner was that Ratu Bhagat predecessor-in-interest of respondent no. 3 was not a Tanabhagat nor he could be so, taking into consideration his age at the time when the land in question was sold in auction.

3. The further defence is that the said application was malafide inasmuch as the said Ratu Bhagat filed an application for restoring the land in question in terms of the provisions of section 71-A of the Chotanagpur Tenancy Act which was dismissed. The said application for restoration is contained in Annexure-2 to the writ application. The defence points out that the aforementioned application on the basis whereof the order dated 3.7.1978 as contained in Annexure-5 was passed was a mala-fide one and not for the purpose of giving effect to the provisions of the aforementioned Act.

4. From a perusal of the impugned order, it appears that respondent no. 2 has not taken into consideration the aforementioned defence of the petitioner at all although he mentioned the aforementioned facts in paragraph 2 of the judgment, as contained in Annexure-5 to this writ petition. Further it appears that in the order impugned, that is Annexure-5, no order determining compensation payable to the petitioner has been passed. Respondent no. 1 in his appellate order also did not discuss the case on merit at all. He simply agreed with the finding of respondent no. 2 without discussing the case in detail. It is now well settled that a judicial authority while acting as an appellate authority although need not state the reasons in detail if he intends to affirm the judgment of the court below, but has to assign some reason for the purpose of showing that he has applied his mind. In this case, it does not appear from the order of the appellate authority as contained in Annexure-1 that he applied his mind to the defence raised by the petitioner. In this circumstance, the impugned order cannot be sustained. However, it may be mentioned that in paragraph 8 of the counter-affidavit filed by and on behalf of respondent no. 3 it has been mentioned that the amount of compensation has been determined after passing of the order as contained in Annexure-5 to the writ petition. In the result, the orders impugned in this writ petition as contained in Annexures 1 and 5 are set aside and the case is remitted to the court of respondent no. 2 for a fresh decision in accordance with law and for passing a speaking order taking into consideration the specific defences raised by the petitioner. He shall also give opportunity to the parties to adduce evidence before him, if the parties intend to do the same. In the circumstances, there will be no order as to costs.