

(2003) 07 JH CK 0091

In the Jharkhand High Court

Case No : Writ Petition (Criminal) No. 203 of 2002

Subodh Kumar Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 17-07-2003

Acts Referred:

Bihar Co-operative Societies Act, 1935 — Section 45A, 45A(5)
Constitution of India, 1950 — Article 226

Citation : (2003) 4 JCR 102

Hon'ble Judges : Vikramaditya Prasad, J

Bench : Single Bench

Advocate : N.N. Prasad and B. Kumar, for the Appellant; S. Akhtar, SCII, A.K. Sahay, JC to SCII and N.R. Sinha, for the Respondent

Judgement

Vikramaditya Prasad, J.—The short facts leading to this writ petition are that the petitioner was admittedly the Secretary of the Co- operative Society functioning in the name and style of Deep Sakhari Grih Nirman Samithi. There was an election, in which another person was elected as the Secretary. It appears that the petitioner had been allotted, vide Annexure-1, a lease deed, the plot No. 605/47, over which, according to the petitioner, he has built a room and living therein. According to the petitioner, the office of the Co-operative Society was being run on plot No. 605/41.

2. The grievance of the petitioner is that his room on plot No. 605/47 was locked by the SDO after removing his properties therefrom and making a seizure list. According to the petitioner, he has filed this writ petition for getting that room unlocked and for getting his properties back.

3. The respondents have appeared. According to the State, the action was taken u/s 45A(5) of the Bihar Co-operative Societies Act. According to the respondent No. 11, who claims himself to be in-charge of the Society, the petitioner was allotted plot No. 605/47 and he was in possession of that plot and had built a room thereon and was living therein.

4. Section 45A of the Bihar Cooperative Societies Act empowers the prescribed authority to take police help for taking the possession of the properties and papers from the outgoing Secretary. In this case, the respondent-State says that as the outgoing Secretary was not making over the charge of the office, this provision was resorted to and with the help of the police, the possession was taken and the office was locked. Apparently, if this is the situation, then there is no undue exercise of the authority either by prescribed authority under the Act or by the police who assisted the prescribed authority under this provision. But the real controversy is that whether the office was on plot No. 605/41 or 605/47. This is a disputed question of fact, into which this Court cannot go. Therefore, the SDO, Jamshedpur, is directed to consider the matter afresh within a period of 15 days from the date of receipt/production of a copy of this order as to whether the office of the Society is situated on plot No. 605/41 or on 605/47. If it is situated on plot No. 605/41, the lock is not required to be removed. But if it is found in pursuance of Annexure-1 that the petitioner was allotted plot No. 605/47, over which he has built a room in the individual capacity and not in the capacity of the Secretary of the Society, the lock of that shall be removed.

5. With these directions/observations, this writ petition is disposed of.