
(2001) 07 JH CK 0047
In the Jharkhand High Court
Case No : CWJC No. 284 of 2000 (R)

Sunil Kumar Sinha and Another

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 04-07-2001

Acts Referred:

Chotanagpur Tenancy Act, 1908 — Section 46, 46(4)
Registration Act, 1908 — Section 17

Citation : (2002) 50 BLJR 307

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

Bench : Single Bench

Advocate : K.K. Singh, for the Appellant; A.B. Mahto, JC to GP 2, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard learned counsel for the parties.

2. This writ application is directed against the orders passed by the authorities under Chhotanagpur Tenancy Act, whereby an order for restoration of the land in question has been passed in favour of the concerned respondent, who is a member of Scheduled Tribe.

3. This is one of the glaring example as to how the members of the Scheduled Tribe are deprived of from their land by fraudulent method. Admittedly, the land belongs to the raiyat Mangra Oraon. The story made out by the petitioners and their predecessor in interest is that in 1967 Mangra Oraon relinquished the disputed land. There is no document of relinquishment. Relinquishment is also a transfer which is hit by Section 46 of the CNT Act for want of permission from the Deputy Commissioner and also hit by Section 17 of the Registration Act for want of registration. Therefore, the first transaction by way of relinquishment is illegal. Immediately, thereafter in order to give a seal of a court of law, a collusive suit was filed by a person who came in possession of the land and that suit got to have been filed by Mangra Oraon against Hia Lal Singh. Although the suit was

against a member of Scheduled Tribe, the Deputy Commissioner was not made party. In that suit a compromise petition was filed and a decree was obtained. It is, therefore, clear that the compromise decree itself is a nullity and no reliance can be attached to that decree. On the basis of that decree Hia Lal then transferred the land to Ram Chhabila Ram and Ram Chhabila in his turn transferred the land to the present petitioners in 1988. Thereafter, for the first time, evidence of possession was created by obtaining rent receipts from the office of the Circle Officer. Hazaribagh.

4. In the aforesaid background of the case, I have no reason to disagree with the view taken by the Commissioner, North Chhotanagpur Division that the concerned respondent was dispossessed from the land by fraudulent method and application for restoration u/s 46(4), CNT Act was filed within 12 years from the date of dispossession.

For the reason aforesaid, I am not inclined to interfere with the orders. This writ application is dismissed.

5. Writ application dismissed.