
(2013) 06 JH CK 0013
In the Jharkhand High Court
Case No : WP (C) No. 3657 of 2011

Tirath Nath Kashyap and Another

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 26-06-2013

Acts Referred:

Citation : (2013) 4 JLJR 407

Hon'ble Judges : P.P. Bhatt, J

Bench : Single Bench

Advocate : A.R. Choudhary, for the Appellant;

Final Decision : Disposed Off

Judgement

P.P. Bhatt, J.—Petitioners, by way of filing the present writ petition under Article 226 of the Constitution of India, have prayed for issuance of an appropriate writ/order/direction for quashing and setting aside the order dated 22.8.2009 (Annexure-5) passed in SAR Appeal No. 69R15/04-05-T.R. No. 32R15/08-09 by the appellate authority i.e. learned Deputy Commissioner, Khunti, whereby the order passed by the learned Sub-Divisional Officer, Khunti (Annexure-4) has been confirmed by the appellate authority. Heard the learned counsel for the petitioners as well as respondents-State Government and perused the impugned order as well as other materials placed on record.

2. The appellate authority being a first appellate authority is required to appreciate evidence/material on record while recording its findings. On perusal of the same, it transpires that the appellate authority without assigning any reason whatsoever for confirmation of the order passed by the learned Sub-Divisional Officer, Khunti, allowed the appeal. It also appears that the case law/decision, which has been referred in the order, is also not pertaining to the subject matter of the proceeding. Therefore, the said order is required to be quashed and set aside and matter is required to be remitted to the appellate authority for de novo hearing and consideration after careful examination of the facts and material/

evidence of the case.

3. Learned counsel for the petitioners submitted that there is ambiguity with regard to plot number and the name of the party and therefore, appellate authority is also directed to examine this aspect at the time of hearing of appeal.

4. Submission of the learned counsel appearing on behalf of the respondents-State Government with regard to alternative efficacious remedy of filing revision, cannot be accepted, as the order passed by the appellate authority is a non-speaking order and appears to be passed without affording reasonable opportunity to the parties concerned.

5. Under the circumstances, impugned order dated 22.8.2009 is set aside and the matter is remitted to the appellate authority for de novo consideration. Appellate authority shall issue fresh notice upon the parties concerned within two weeks from the date of receipt/production of a copy of this order and thereafter, the parties to the proceeding, upon receipt of notice, shall appear and co-operate in the proceeding for its expeditious disposal. The appellate authority after giving reasonable opportunities to the parties, shall make endeavour for expeditious disposal of the appeal, preferably within a period of six months from the date of appearance of the parties. With the aforesaid observation and direction, this writ petition stands disposed of.