
(2023) 08 JH CK 0021

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3763 Of 2023

Umesh Goswami

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 07-08-2023

Acts Referred:

Citation : (2023) 08 JH CK 0021

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Dr. Jai Prakash Gupta, Pandey Neeraj Rai, Mohini Gupta, Ashutosh Anand, Binit Chandra, Indrajit Sinha, Puja Agarwal, Nipun Bakshi,, Lukesh Kumar, Shekhar Prasad Sinha

Final Decision : Allowed

Judgement

Gautam Kumar Choudhary, J

I.A. No. 5663 of 2023

Heard learned counsel in I.A. No.5663 of 2023 which has been filed for being impleaded as party on the ground that their forefathers had been dispossessed in the year 1947 for establishment of Sindri Fertilizer Corporation of India Limited the said land was acquired.

The main plea for being impleaded is that 1.21/121 decimal of land is that the said land was in the usage of Adiwasi people for their cultural programme like Sarna Puja, Sarhul, Karma, Sohrai.

Heard learned counsel for the intervener-Asha Kumari @ Asha Hembram in this interlocutory application, who is the Secretary of Mahila Visthapit Morcha, Sindri, Dhanbad and belongs to scheduled tribes whose forefathers were dispossessed from their ancestral land sometime in the year 1947 for establishment of Sindri Fertilizer Corporation of India Ltd.

It is submitted that prior to establishment of Sindri Fertilizer Corporation of India

Ltd., the members belonged to scheduled tribes have been continuously performing their religious cultural programmes i.e. Sarna Puja, Sarhul, Karma, Sohrai, Baha festivals etc. in the said ground which is in usages of about 20,000/- Adiwasia people in the vicinity of Rangamati, Sindri. The management of Sindri Fertilizer Corporation of India Ltd. has hatched plan to deprive the members belonging to scheduled tribes from their fundamental rights of performing their religious programmes and made capture in 139 decimals of land.

I find force in the submission advanced on behalf of the petitioner that petition for being impleaded is without any supporting document of possession over the said land. Admittedly the land had been acquired way back in 1947 and no such claim was ever made on behalf of the intervenor before any legal forum. Under the circumstance the intervenor has no right to intermeddle with the settled possession of the School. There are contradictions in the area claimed to be under the usage for cultural purpose in para 7 it is stated to be 121 decimals whereas in para 8 is stated to be 1.21decimals.

Under the circumstance, I.A. No. 5663 of 2023 for impleadment stands rejected.

W. P. (C) No. 3763 of 2022

1. The instant writ petition has been filed for direction to the Respondent authorities of local administration of Dhanbad to provide adequate and proper security and deploy Magistrate and sufficient police force to ensure erection of boundary wall around the playground of DAV Public School, Rangamatia, Sindri (Senior Wing) situated in partly Baliapur Circle and Jharia Circle.

2. The petitioner is the father of the girl child who is a student of Class-X of DAV Public School, Rangamatia, Sindri. The said prayer has been made for the safety and security of the children of the said school.

3. It is submitted by learned counsel for the petitioner that the Right of Children to Free and Compulsory Education Act, 2009 is provided for free and compulsory education to all children. The schedule provides that the building of the school shall consist of a playground and there shall be an arrangement for securing the school building by boundary wall or fencing. In absence of boundary wall, the security of the children is in jeopardy for which the writ petition has been filed. In this regard, direction was issued by the Sub Divisional Officer, Dhanbad 26.02.2022 for providing adequate security for construction of boundary wall. After the direction was issued to the Sr. S.P., Dhanbad, the Officer In-charge, Baliapur has sworn an affidavit stating therein that the construction of boundary wall was being opposed as some religious dispute arose for which Baliapur P.S. Case No. 103 of 2022 was registered against the miscreants. The Circle Officer has sworn affidavit and stated that on the requisition of DAV School, the police force was deployed but there was strong resistance on the part of the local persons in construction of the said boundary wall.

4. The Principal of the DAV School also appeared in this Court and filed affidavit

in which it has been averred that in spite of all efforts being made by the school administration, the boundary wall could not be constructed due to non-cooperation on the part of the district administration.

5. Learned counsel for the DAV Management has also appeared before this Court and stated the same facts almost in similar line that despite the request made by the parents of the student, the boundary wall could not be constructed because of non-cooperation on the part of the district administration.

6. The moot question involved in the instant petition is whether lawful possession can be interfered with by any party without any modicum of title?

7. Matter involves fencing of the playground of Senior Wing of DAV Public School, Rangamatia, Sindri, which has been leased to the School along with the building by Fertilizer Corporation of India vide lease agreement dated 14.5.1999. It is not disputed that the land in question was acquired way back in 1947 by the lessor. No claim of possessory or proprietary title has been put forward from any quarter. However, the construction of boundary wall is being opposed by certain social groups claiming them to displaced Scheduled Tribe association.

8. This Court is of the view that when the School has bonafide title of lease in its favour issued by a competent authority, none can interfere with its peaceful possession without any right, title or interest. The parties who claim such right are at liberty to approach the Civil Court for adjudication of their rights, but perse they cannot take law in their hand and interfere with the construction of boundary wall on the lease hold area of the school. To hold otherwise shall be against the rule of law which is the foundation of the Constitution of India. District administration is duty bound to provide security to the school administration to enable the construction of the boundary wall over the plot in question.

Deputy Commissioner and Superintendent of Police, Dhanbad are directed to provide adequate proper security by deploying Magistrate and sufficient police personnel for construction of boundary wall around playground of DAV Public School, Rangmatia, Sindri (Senior Wing) situated partly in Mouza Sawalpur, Mouza No.183 (Under Baliapur Circle) and partly in Mouza Saharpura, Mouza No.174 under Jharia Circle.

Writ Petition is accordingly allowed. I.A. if any, is also disposed of.