
(2025) 02 JH CK 1221

In the Jharkhand High Court

Case No : Writ Petition (C) No. 6667 Of 2023

Utpal Chakravarty S/O Late Arun Prakash Chakravarty

APPELLANT

Vs

State Of Jharkhand through Deputy Commissioner

RESPONDENT

Date of Decision : 20-02-2025

Acts Referred:

Citation : (2025) 02 JH CK 1221

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Navin Kumar, Suraj Verma, Sanjay Kr. Tiwari

Final Decision : Allowed

Judgement

Deepak Roshan, J

1. The instant writ application has been preferred by the petitioner praying therein for setting aside the notices with SL no. 178 issued by the Circle Officer, Ranchi in relation to Mauza Lalpur Thana no.197 Khata no. 59 M.S. Plot no. 1263 and 1264 with KN Plot no. 149 and 154 area 0.263 and SL no. 17 in relation to Mauza Lalpur Thana no. 197 Khata no. 59 Plot no. 149 and 154 M.S. Plot No.1263 and 1264 KN Plot no. 149 and 154 area 1.523; whereby the petitioner has been directed to show cause as to why according to the Circular no. 313/14/239 action not be taken as against the petitioner (Annexure -1 Series).

2. Mr. Navin Kumar, learned counsel for the petitioner submits that the land in question was purchased by petitioner's grandfather on 26.07.1927 through a registered sale deed and also the same has also been recorded in Municipal Survey Khatian in the year 1929 in the name of the Petitioner's grandfather. He further submits that the land in question was also partitioned by the Partition Deed executed on 05.10.1971 between the legal heirs of the petitioner's grandfather. Thereafter, an application for mutation of the land was filed by the petitioner and his mother Late Gauri Chakraborty and the same was duly mutated in their name vide Mutation Case No.189/R/27/01-02.

Learned Counsel further submits that the petitioner's father and his two uncles on 16.12.2003 executed one land development agreement with M/s Binayaka & Associates for construction of an apartment in the said land and after construction of the apartment, some flats were also sold.

However, all of a sudden, the impugned notices were issued by the concerned respondent taking a stand that the land in question is shown as Khas Mahal land and due to this reason, the purchasers of the flat are not able to sell their flats as the District Sub Registrar is refusing for the same and the concerned Banks are also refusing to grant loan for any purposes for the said flats.

3. Per contra, learned counsel representing the respondents relying upon the counter affidavit submits that in the mutation done, the details of Plots No. were not mentioned. In the above-referred Mutation case, the applicants applied for succession mutation, and accordingly, the order of succession mutation was passed by the circle office Sahar Anchal, Ranchi without the Plot Number. He further submits that the list of K.M Plot/Land was later given by learned L.R.D.C. Sadar Ranchi in which the said Plot Number 1263 and 1264 were shown in lease, which is the petitioner's plot. Therefore, impugned notices have been issued.

4 . Having heard learned counsel for the parties and after going through the documents annexed with the respective affidavits it appears that the land in question was purchased by petitioner's grandfather namely Late Govaninder Nath Chakraborty @ Gyenendra Nath Chakraborty from one Mr. Nripendra Krishna Biswas on 26.07.1927 through a registered sale deed and the land is also recorded in the Municipal Survey Khatian in the year 1929 in the name of the Petitioner's grandfather (Annexure 5 series). It further appears that the grandfather of the petitioner was in peaceful possession of the land in question during his lifetime and thereafter, by virtue of a partition deed executed on 05.10.1971 between the legal heirs of Late Gowaninder Nath Chakraborty @ Gyenendra Nath Chakraborty (Annexure 6), the same was partitioned.

5. It further appears from the documents that an application for mutation of the land was filed in the name of the petitioner and his mother Late Gauri Chakraborty and the same was duly mutated. In the said Mutation Case No.189/R/27/11-12, a report was also called for from the then Halka Karmachari and Circle Inspector; where in the investigation report it has been categorically stated that the said land is a raiyati khatiyani and the same is free from government bhuihari, bhuhadbandi and lease.

It is also evident from record that the name of the petitioner's grandfather is recorded in the Municipal Survey Khatian in the year 1929 and the name of the petitioner's father Late Arun Prakash Chakravarty is also recorded in Jamabandi Register-II. Pursuant thereto, correction slip showing mutation was also issued by the Circle Officer with memo no. 541 dated 29.06.2012.

6. The fact further reveals that the petitioner's father and his two uncles on 16.12.2003 executed one land development agreement with M/s Binayaka &

Associates for construction of an apartment on the said land for which the builder Mr. Narendra Butala had applied for passing of the map with RRDA 'Ranchi Regional Development Authority' and the same was passed and accordingly the apartment was constructed. Thereafter, some flats were also sold and now the purchasers of the flats are not allowed to sell their flat due to the issuance of the notice bearing S. No.178 and 17 respectively issued by the circle officer stating that the said land is settled as Khas Mahal and the State Government is the owner.

7. This Court fails to understand that as to which provision of the law empowers the circle officer to determine the title to the land. Admittedly, the property in question after its purchase by petitioner's grandfather on 26.07.1927 has been in continuous peaceful possession of the ancestors of the petitioner and has also been registered in the Municipal Khatiyani of 1929 in the name of petitioner's grandfather and mutated in the name of petitioner and his mother on the report of Halka Karamchari and Circle Inspector mentioning that the said land is a raiyati khatiyani and is free from government bhuihari, bhuhadbandi and lease.

The doctrine of separation of powers, preclude the Circle Officer, who is a member of the Executive branch of the Government from exercising judicial powers. It is only the Civil Court of competent jurisdiction, who will decide the disputed question of fact. Thus, this Court holds that the Circle Officer cannot unilaterally determine the title of the government to the land in dispute as only the civil court of competent jurisdiction can do so. Reliance is being placed upon the decision of Hon'ble Apex Court rendered in the case of Government of Andhra Pradesh Vs. Thummala Krishna Rao and Anr. (1982) 2 SCC 134, wherein it has been categorically held that if there is a bonafide dispute regarding title of the government to any property, government cannot take a unilateral decision in its own favour that the property belongs to it.

8. It further appears that the notice being S. No. 178 does not disclose any registered deed number or date and notice being S. No. 17 indicates that Government vide its registered deed number 2902, dated 28.02.1932 settled the land in favour of the petitioner's grandfather from 1966 to 1996 i.e. for a period of 30 years however, the lease deed annexed by the respondent reveals that the lease was made on 23.09.1932 for a period of 9 years.

On the other hand, the petitioner has been paying rent in connection with the land described in the aforementioned notices after mutation and that the name of the father of the petitioner appears in Register II as such there is a bonafide dispute has been raised by the State respondents against the petitioner.

9. Admittedly, the possession of the petitioner is long standing as evidenced by the Municipal Khatiyani and the Mutation order. So, there is a bonafide dispute of title and hence the state government should file a Civil Suit for declaration of title.

10. Therefore, in view of the above discussion and the law laid down by the Hon'ble Apex Court, the notice being SL no. 178 issued by the Circle Officer,

Ranchi in relation to Mauza Lalpur Thana no.197 Khata no. 59 M.S. Plot no. 1263 and 1264 with KN Plot no. 149 and 154 area 0.263 and SL no. 17 in relation to Mauza Lalpur Thana no. 197 Khata no. 59 Plot no. 149 and 154 M.S. Plot No.1263 and 1264 KN Plot no. 149 and 154 area 1.523, are hereby, quashed and set aside. The concerned respondent is directed to admit registration which is placed before it for the flats constructed over the land in question if applied, if there are no other legal impediments, save and except the issue involved in the instant case

11. As a result, the instant writ application stands allowed. Pending I.A., if any, is also disposed of.