

(2010) 09 JH CK 0027

Jharkhand High Court

Case No: Writ Petition (C) . No. 532 of 2009

Arun Prasad

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Sept. 14, 2010

Acts Referred:

- Chotanagpur Tenancy Act, 1908 - Section 71A

Hon'ble Judges: R.K. Merathia, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

R.K. Merathia, J.

This writ petition has been filed against the order dated 21.10.2008 passed in S.A.R. Revision No. 114 of 2008 confirming the order dated 29.12.2006 passed in S.A.R. Appeal No. 75(R) 15/2005-06 confirming the order dated 12.5.1997 passed in S.A.R. No. 176 of 1995 directing the Petitioner to restore the land in question in favour of the Respondent No. 5.

2. Mr. V. Shivnath, learned senior counsel appearing for the Petitioner submitted that the original order was passed ex-parte and Petitioner was not given proper opportunity of hearing, and his case has not been properly considered.

3. It appears from the aforesaid order dated 12.5.1997 that the said proceeding for restoration of land u/s 71 A of the Chhotanagpur Tenancy Act, was initiated by Respondent No. 5, against Ramesh Prasad, Birendra Prasad and Arun Prasad (Petitioner) all sons of late Nageshwar Prasad, resident of Dak Bunglow Road, Patna, Secretary, Neelanchal Sahkari Grih Nirman Samiti, Ranchi. In spite of publication of notice in newspaper, no body appeared on behalf of the said opposite parties in the said proceeding. After considering the documents produced by Respondent No. 5- Birsra Oraon, the S.A.R. Officer allowed the petition and directed restoration of land

in favour of Respondent No. 5.

4. An appeal was filed by the Petitioner after about 8 years. No other party filed appeal. According to the Petitioner, when he came to know about the said order, he filed the said appeal. It was submitted on behalf of the Petitioner before the appellate authority that in the said case wrong persons were added as parties; and that the land in question was declared "homestead" (chhaparbandi) in the year 1948 and on 3.12.1955 it was purchased by the predecessor in interest of the Petitioner who were living at Patna.

The Appeal was dismissed on the ground that the Petitioner did not produce any document in support of his case, as to how the "Adiwasi" land was transferred and was declared "homestead". Only photo copies of some rent receipts were produced.

Petitioner preferred the said revision before the revisional authority. It appears from the revisional order that no documents were produced by the Petitioner, except that, in paragraph 6 and 7 of the revision petition, it was said by the Petitioner that, the land belonging to the "Adiwasi" Khata was settled on 02.04.1951 by registered document as "homestead" land in favour of Respondent No. 5 and others, who were the Khatiyani Raiyats and that on 04.04.1951 by registered document they sold it to Petitioner and his relatives. The revisional authority dismissed the revision holding that even as per the said statements made in the revision petition, both the transfers i.e., alleged settlement in favour of Respondent No. 5 and others and the alleged sale by them to the Petitioner and others, are actually one transaction, which clearly establishes illegal transfer of "Adiwasi" land.

5. This proceeding was initiated by Respondent No. 5 in the year 1995 i.e., about 15 years ago. The original order was passed after publication of notice in the newspaper. Then, the Petitioner filed an appeal after about 8 years, and then the revision, where he had full opportunity, but he did not produce the documents in support of his case. The stand of the Petitioner has been contradictory also. The impugned orders have been passed after hearing the parties, and considering the documents produced by them and taking into consideration relevant aspects of the matter. This appears to be a case of grabbing the land of poor "Adiwasi". It is also not understood as to how a huge land of 4.08 Acres can be claimed by the Petitioner as "Homestead"(Chhaparbandi).

6. In the facts and circumstances noticed above, no grounds are made out for interfering with the impugned orders.

Accordingly, this writ petition is dismissed with a cost of Rs. 10,000/-(Rs. ten thousand only) to be paid to Respondent No. 5 within four weeks.