

(2011) 02 JH CK 0022

Jharkhand High Court**Case No:** Writ Petition (C) No. 124 of 2010

Sri Sai Centre

APPELLANT

Vs

The State of Jharkhand and
OthersRESPONDENT

Date of Decision: Feb. 15, 2011**Acts Referred:**

- Bihar Land Reforms Act, 1950 - Section 7D, 7E

Hon'ble Judges: Dhirubhai Naranbhai Patel, J**Bench:** Single Bench

Judgement

D.N. Patel, J.

Learned Counsels appearing for the Petitioners vehemently submitted that the Petitioners are sublessees of the properties, in question. Leases were given by the Tata Steel Limited. By virtue of Sections 7D and 7E of the Bihar Land Reforms Act, 1950, the Tata Steel Limited had entered into lease agreement with the Respondent-State, wherein, Clause 8 thereof imposes an obligation upon the Tata Steel Limited to seek approval if at all the land is to be subleased.

2. Learned Counsels appearing for the Petitioners further submitted that as per the aforesaid Clause 8 of the lease agreement, an approval was sought for the sublease to be entered into, which was also granted, but, a condition for deposition of the sizable amount was imposed. The amount ordered to be paid has been fixed arbitrarily and without giving any opportunity of being heard to the proposed sub-lessee, who are the Petitioners.

3. It is further contended by learned Counsels for the Petitioners that the demand made by the State of Jharkhand for the amount to be paid for grant of sublease, is without any authority of law and, hence, the same deserves to be quashed and set aside. No law permits the State of Jharkhand to impose and levy, any amount for approval of sublease from the hands of the lessee i.e. Tata Steel Limited to propose

sublessee i.e. the Petitioners.

4. It is further contended by learned Counsels for the Petitioners that in fact, the land in question, which is approximately 15700 acres was acquired under the Land Acquisition Act, 1894 and the compensation was already paid by the Tata Steel Limited and thus in fact the lessee is the owner of the property in question, but, by virtue of Bihar Land Reforms Act, 1950 especially under Sections 7D and 7E, the Tata Steel Limited has been declared as a lessee and lease agreement has been entered into between the State of Jharkhand and the Tata Steel Limited and by virtue of Clause 8 thereof original owner of the property i.e. the Tata Steel Limited has to get approval prior to sublease of the land. There is no authority under the law vested in the State to impose and levy, any amount for approval of the sublease.

5. It is further contended by learned Counsels for the Petitioners that the case of the Tata Steel Limited, who is the lessee of the present Petitioners, can not be compared with the case of Zamindar/intermediary/settler/intervenor of the land. In fact, the lessee i.e. the Tata Steel Limited is the owner of the property by virtue of acquisition of the land, which has taken place prior to one century.

6. Learned Counsel appearing for the Respondent State is seeking time to get instructions as to how the State has got power, jurisdiction and authority to impose any financial obligation to be paid by the lessee for grant of sublease to the Petitioners.

7. So far as the Petitioners in W.P. (C) No. 1181 of 2009 and W.P. (C) No. 2160 of 2009 are concerned, interim relief earlier granted by this Court vide order dated 21st May, 2009 shall stand continue to be operative, till the next date of hearing. So far as the Petitioner in W.P. (C) No. 2655 of 2009 is concerned, interim relief earlier granted by this Court vide order dated 29th June, 2010 shall stand continue to be operative, till the next date of hearing.

8. Having heard learned Counsel for the Petitioner in W.P. (C) No. 124 of 2010 and looking to the facts and circumstances of the case, it appears that there is prima facie case in favour of the Petitioner, balance of convenience is also in favour of the Petitioner and if the stay, as prayed for, is not granted to the Petitioner, it will cause irreparable loss to the Petitioner, therefore, no coercive steps shall be taken by the State of Jharkhand against the Petitioner in W.P. (C) No. 124 of 2010, till the next date of hearing, in pursuance of the demand raised by the Respondent State for the levy of charges/cesses, in question.

9. The matter is adjourned to be listed on 22nd March, 2011.