

(2010) 02 JH CK 0018

Jharkhand High Court

Case No: Writ Petition (C) No. 2487 of 2008

Hanukh Bhengra @ Hanok
Bhengra

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Feb. 24, 2010

Citation: (2011) 3 JCR 78 : (2011) 2 JLR 86

Hon'ble Judges: Dhirubhai Naranbhai Patel, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

D.N. Patel, J.

I have heard learned Counsel for the Petitioners at length, who has submitted that the Petitioners and their predecessors in title are in possession of the property since 1933 onwards. It is also submitted by learned Counsel for the Petitioners that the Petitioners are also paying rent to the Respondent-State. Rent receipts have also been presented before the authority below, but no care has been taken by the subordinate authority to check that there are rent receipts prior to 1990 also and subsequent to 1990 also and factually wrong statement has been made in the impugned orders that there are no rent receipts prior to 1990. Likewise, there is a registered sale deed in favour of the ancestor of the present Petitioners. The registered sale deed is dated 5th July, 1933 bearing sale deed No. 282. This aspect of the matter has not been properly appreciated by the authority below and the registered sale deed is declared, as false and fabricated document. Revenue Officer has no power, jurisdiction and authority to decide the legality of the register documents. They have no authority to hold that the registered sale deed is a fabricated document. Only Civil Court has such powers and, therefore also, the impugned orders may kindly be stayed, during the pendency of the final hearing of this writ petition.

2. Learned Counsel for the Respondent-State has submitted that the counter-affidavit on behalf of Respondent Nos. 1 to 3 has already been filed and it is stated in the counter-affidavit that the Khatian of the impugned land was prepared in the year 1930 and there is no reference of the sale deed of the predecessors in title of the present Petitioners. Secondly, the so-called sale deed dated 5th July, 1933 bearing sale-deed No. 282 has never been challenged in the Civil Courts.

3. Nobody appears on behalf of Respondent Nos. 4 to 8, though they are served. They have chosen not to present before this Court nor they are appearing through any lower, no lawyer is present on their behalf.

4. In view of the aforesaid submissions and looking to the facts and circumstances of the case and the registered sale deed No. 282 dated 5th July, 1933 and also looking to the rent receipts, I hereby stay the operation, implementation and execution of the order passed by learned Sub-Divisional Magistrate, Khunti in Scheduled Area Regulation Case No. 34 of 2004-05 dated 20th December, 2005. (Annexure-2 to the memo of petition) as well as I hereby stay the operation, implementation and execution of the order passed by learned Additional Collector, Ranchi in Scheduled Area Regulation Appeal No. 35-R-15/2005-06 dated 13th December, 2006 (Annexure-3 to the memo of petition) as well as I hereby stay the operation, implementation and execution of the order passed by the Commissioner, South Chhotanagpur Division, Ranchi in Scheduled Area Regulation Revision No. 31 of 2007 dated 7th January, 2008 (Annexure-4 to the memo of petition), during pendency and final hearing of this writ petition.

5. This writ petition is Admitted.

6. Learned Counsel for Respondent Nos. 1 to 3 waives notice of Rule on behalf of Respondent Nos. 1 to 3.