
(2003) 11 JH CK 0023

Jharkhand High Court

Case No: LPA No. 483 of 2003

Md. Nasim Khan

APPELLANT

Vs

Bharat Coking Coal Limited

RESPONDENT

Date of Decision: Nov. 11, 2003

Acts Referred:

- Chotanagpur Tenancy Act, 1908 - Section 87
- Constitution of India, 1950 - Article 226

Citation: (2004) 2 JCR 109

Hon'ble Judges: P.K. Balasubramanyan, C.J; Tapen Sen, J

Bench: Division Bench

Advocate: P.K. Prasad, A.K. Pasari and I. Sinha, for the Appellant; Anoop Kumar Mehta and Rajiv Anand, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. Heard both sides.

The dispute relates to preparation of record of rights holding that the land in question vests in the Central Government under the Coal Mines Nationalisation Act, 1973. The appellate authority confirmed the order of the revisional authority recording the respondent herein in the record of rights as being in possession. The learned Single Judge refused to interfere with the order under Article 226 of the Constitution of India, taking the view that it will be proper for the appellant to institute a suit in the Civil Court in terms of Section 87 of the Chotanagpur Tenancy Act, 1908 (hereinafter referred to as "the Act"). This decision is challenged in this appeal.

2. Mr. P.K. Prasad, counsel for the appellant submitted that the order was passed by the revisional authority without hearing the appellant and on that ground alone, the appellate authority ought to have set aside the order of the revisional authority.

Alternatively, he submitted that the appellant was entitled to go to the Civil Court to establish his right over the property in question. The learned Single Judge was not justified in confining the appellant to a proceeding u/s 87 of the Act. These contentions are controverted by the counsel for the respondent.

3. We find that ultimately the question whether the appellant has title or right over the property and consequential possession over the property, can only be satisfactorily and finally decided by a Civil Court having competent jurisdiction over the subject matter.

4. In that view of the matter, we are not satisfied that any interference is warranted. But we are of the view that it is not necessary to confine the appellant to a proceeding u/s 87 of the Act. It will be open to the appellant to approach a Civil Court of competent jurisdiction for appropriate reliefs, if he is so advised it would be for that Court to decide its jurisdiction.

With the above clarification, this appeal is disposed of.