

(2012) 05 JH CK 0048

Jharkhand High Court

Case No: WP (C) No. 6771 of 2011

Mutar Dhobi

APPELLANT

Vs

Parbil Dhobi and Others

RESPONDENT

Date of Decision: May 7, 2012

Acts Referred:

- Constitution of India, 1950 - Article 227

Citation: (2012) 3 JLJR 248

Hon'ble Judges: P.P. Bhatt, J

Bench: Single Bench

Advocate: Atanu Banerjee, D.C. Mishra, for the Appellant; Amar Kumar Sinha, P.K. Prasad and K.K. Ambastha, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

- Heard the learned counsel for the petitioner and learned counsel for the State. Perused the papers.
- The present petition, under Article 227 of the Constitution of India, is filed by the petitioner with a prayer for issuance of an appropriate writ/order/direction for quashing and setting aside the order dated 29.6.2011 passed in Title Suit No. 145 of 1992 by the learned Sub-Judge-VI, Hazaribagh, whereby two separate petitions both dated 17th June, 2011 filed on behalf of the defendant (petitioner herein) praying therein to mark the original sale deed No. 16038 dated 16.12.1976 and certified copy of sale deed No. 10607 dated 4.9.1989 as exhibits on behalf of the defendants and to give an opportunity to the defendants to prove the rent receipts, has been rejected. It is further prayed for quashing and setting aside the order dated 17.8.2011, passed in Title Suit No. 145 of 1992 by the learned Sub-Judge-VI, Hazaribagh, whereby the petition dated 20.7.2011 filed on behalf of the defendant (petitioner herein), praying therein, to grant leave and to receive the documents

filed on 1.6.2011, 10.6.2009 and 1.8.2009 in evidence and thereafter, to mark exhibit two sale deeds and to give an opportunity to prove the Government rent receipts in accordance with law, has been rejected.

3. The learned counsel for the petitioner by referring to the impugned order, submitted that the petitioner has not been given reasonable opportunity/chance to produce the relevant documents before the court below. In support of his submissions, the learned counsel for the petitioner has referred to and relied upon the order passed in W.P.(C) No. 4253 of 2008, wherein, in similar set of facts and in similar circumstances, this Court by allowing the petition, given opportunity to the writ petitioner to produce the documents.

4. The learned counsel for the Respondents submitted that the petitioner failed to produce the requisite documents in time and in view of the provisions contained in the Civil Procedure Code, the documents are required to be produced before finalization of the issue, which the petitioner failed to do so and therefore, the court below has rightly rejected the petition.

5. Considering the aforesaid rival submissions and on perusal of the materials available on record and more particularly, on perusal of the order passed by the court below, it appears that the petitioner has been deprived from production of relevant and material documents, such as two sale deeds and Government rent receipts. The nature of the suit is Title (Partition) Suit and therefore, it appears that the documents in question are relevant and material for the purpose of adjudication and decision in the matter. It further transpires that in similar set of facts, this Court decided the matter [W.P.(C) No. 4253 of 2008] wherein, the writ petitioner also submitted such application at belated stage but the Court felt that the documents, which were sought to be exhibited, should have been examined closely by the court below and the court below should have scrutinized the documents for a just decision of the case and as such, the court below was liable to allow the documents to be taken on record. Considering the facts and circumstances of that case, the aforesaid writ petition was allowed and the petitioner therein was permitted to produce the documents and the court below was directed to allow the documents to be taken on record.

6. In the present case also, the petitioner submitted application at a belated stage when final argument of the plaintiffs has already been closed and therefore the court below rejected the same application but in view of the order passed in W.P.(C) No., 4253 of 2008, it appears that with a view to give just and reasonable opportunity to the petitioner, the court below is required to be directed to allow the documents to be taken on record and thereby give just and fair chance to the other side so that the issue before the court below can be decided after considering all the necessary and relevant documents of the case and after affording a reasonable opportunity to the parties before the court below. In view of the above discussions, the present petition is allowed. The impugned orders dated 29.6.2011 and 17.8.2011

are ordered to be quashed and set aside. It appears that the suit is of the year 1992 and therefore, it is desirable that the trial court should give priority to such an old case. The court below shall complete the exercise of taking the documents including the two sale deeds and Government rent receipts which have already been filed by the petitioner, on record within two weeks from the date of receipt of the order and thereafter, shall proceed further with the suit and shall make possible endeavours to complete/ decide the said suit within a period of six months from the date of receipt/production of a copy of this order.