

**M/s Tata Iron and Steel Company Limited, Jamshedpur Vs State of Jharkhand and Others
 M/s Tata Steel Ltd. Vs The State of Jharkhand and Others**

Court: Jharkhand High Court

Date of Decision: April 23, 2012

Acts Referred: Bihar Land Reforms Act, 1950 â€" Section 2B, 50(5), 6, 7D, 7E

Chotanagpur Tenancy Act, 1908 â€" Section 50, 50(5), 90

Constitution of India, 1950 â€" Article 32

Citation: (2012) 3 JCR 105 : (2012) 3 JLJR 302

Hon'ble Judges: Poonam Srivastava, J

Bench: Single Bench

Advocate: Binod Kanth, G.M. Mishra, Umesh Mishra, for the Appellant; V. Shivnath Sr. Advocate, Birendra Kumar for Respondent Nos. 6 and 7, Mr. V.K Prasad, S.C. (L and C) for the Respondent- State and Mr. Rohit Roy, Advocate, for the Respondent

Final Decision: Dismissed

Judgement

Poonam Srivastav, J.

The two writ petitions are heard together and decided by this common judgment as the controversy involved is one

and the same. In W.P.(C) No. 1981 of 2003, the order passed under challenge is dated 05.08.2002 passed by Respondent No. 5- Assistant

Settlement Officer, Jamshedpur, East Singhbhum, in Case No. 464 of 2001-02 u/s 90 of the Chota Nagpur Tenancy Act (Annexure- 7 to the writ

petition).

2. W.P.(C) No. 6816 of 2005 is the consequential letter issued, pursuant to the aforesaid order, vide letter No. 305/Ra dated 05.09.2005, by the

Principal Secretary, Department of Revenue and Land Reforms, Government of Jharkhand to the Deputy Commissioner, East Singhbhum

(Annexure- 1) and letter No. 5/Sa. Bhu.Pu. Singh-54/05-3553/Ra dated 27.10.2005 from the Deputy Secretary, Department of Revenue and

Land Reforms, Government of Jharkhand to the Deputy Commissioner, East Singhbhum and also letter No. 5/Sa. Bhu.Pu. Singh-54/05-3650/Ra

dated 10.11.2005 (Annexure- 3) and General Notice dated 19.11.2005 (Annexure 4) whereby the authorities of the respondent-State are bent

upon releasing the R.S. Plot Nos. 1566, 1567, 1568, 1569, 1570 and 1572, Khata No. 40 in Mauza- Khuntadih measuring an area of 5.26

acres, which stand statutorily leased to the petitioner, treating the said land to be raiyati land and allotting the same in favour of Respondent Nos. 6

and 7.

3. Heard Shri Binod Kanth, Sr. Advocate, assisted by Mr. G.M. Mishra and Mr. Umesh Mishra, Advocates on behalf of the petitioner- M/s Tata

Iron & Steel Co. Ltd., Shri V. Shivnath, Sr. Advocate, assisted by Mr. Birendra Kumar Advocate on behalf of Respondent Nos. 5 & 6, Shri

V.K. Prasad, S.C. (L & C) on behalf of the State and Shri Rohit Roy, Advocate on behalf of Respondent No. 8.

4. The petitioner is a Company incorporated under the Indian Companies Act having its office and factory at Jamshedpur in the district of East

Singhbhum. 15725 acres of land was acquired under the provisions of Land Acquisition Act, 1894 by the then Provincial Government by two

deeds of Conveyance for establishing Iron & Steel Col and allied Companies and also a township. The entire land was not used immediately,

therefore, approximately 3000 acres of land was unused and the said vacant land was permitted to be cultivated by local cultivators. The disputed

plot Nos. (Old) 1566, 1567, 1568, 1569, 1570 and 1572 of Khata No. 40 at village Khuntadih were given to one Bengal Kumar in the year

1934-37. The said Bengal Kumar started cultivating 5.26 acres of land and consequently his name came to be recorded in the record of rights as a

tenant.

5. Submission on behalf of the petitioner is that the aforesaid land in question was taken over by the Tata Steel after initiating a proceeding u/s 50

of the C.N.T. Act. The petitioners were delivered possession on 24.06.1944. Subsequently, the Bihar Land Reforms Act, 1950 (hereinafter

referred to as "BLR Act") was enacted and interest of all the intermediaries vested in the State which became sole landlord. Claim of the petitioner

is that at the time when the BLR Act came into effect from 01.01.1956, petitioners were in peaceful possession, but on the advent of the Act, the

entire land vests in the State. Section 2B of the BLR Act was enacted in the year 1961. This was challenged before the Apex Court under Article

32 of the Constitution of India and the Apex Court granted a stay which continued for a period of 11 years. However, subsequently, the petitioner

withdrew the writ petition on 16.08.1982. Section 2B of the BLR Act was deleted in the year 1972 and Section 7D and 7E were incorporated

and, thus, the petitioner's contention is that they became the settle. Provisions of Section 7D and 7E was amended by Act No. 17 of 1984 and

thereafter, the petitioners were treated to be a deemed lessee under the State and the lease deed was executed for a period of 40 years. The

period of lease commenced with effect from 1956. The proceedings u/s 6 of the BLR Act commenced in the year 1965, vide Case No. 223 of

1965-66. The predecessor of Respondent Nos. 6 and 7, Bengal Kumar filed an application u/s 6 for fixation of fair rent in the year 1971 which

was allowed on 31.07.1971 by the DCLR. The petitioner preferred an appeal, vide Miscellaneous Appeal No. 10 of 1971-72 which was

dismissed. Learned counsel on behalf of the petitioner submits that the said order was challenged in C.W.J.C. Nos. 204, 205 and 212 of 1981(R)

(Tata Iron & Steel Co. Ltd. Vs. State of Bihar & Ors.) which) was allowed, vide order dated 23.09.1986 by the Patna High Court and is

reported in 1986 BLT 220.

6. The State Government held a survey) and prepared a draft which was published in the year 1995. Name of the petitioner-TISCO was not

recorded as a lessee. This led to filing of an objection by the petitioner u/s 83 of the C.N.T. Act. The said objections were rejected on

26.06.1991. A Revision was preferred on behalf of the petitioner, vide Revision No. 138 of 1992-93 which was allowed on 15.06.1996.

Respondent Nos. 6 and 7 filed an application in the year 2001 u/s 90 of the C.N.T. Act which was allowed by the Assistant Settlement Officer,

vide Annexure- 7 to the W.P.(C) No. 1981 of 2003 and the said order is impugned in the instant writ petition.

7. Submission of the learned counsel is that the aforesaid order is in the teeth of the order of the Patna High Court reported in 1986 BLT 220. The

said decision in C.W.J.C. Nos. 204, 205 and 202 of 1981 (R) decides finally that the petitioners being intermediary on the date of vesting when

BLR Act came into force, they are entitled to retain possession. The Patna High Court has clearly held that the petitioner-Company was in

possession, but not liable to pay rent and the order is now conclusive.

8. Learned counsel appearing on behalf of the contesting respondent Nos. 6 and 7 has vehemently disputed the petitioner"s contention in as much

as they have no raiyati rights in the land in question and also not liable to pay any rent. They are neither intermediary nor in possession. The

admitted status of the petitioner is that of a lessee and a lease deed is executed and in existence between the State and TISCO.

9. Shri V. Shivnath as well as learned State counsel have argued that the decision of the Patna High Court reported in 1986 BLT 220 has no

relevance in the present case since the claim of the petitioner that they came in possession on the basis of an application filed by them u/s 50 of the

CNT Act cannot be accepted. The submission; of the learned counsel is that the decision of the Patna High Court is not Conclusive regarding the

present controversy involved in the instant case. It is pointed out in paragraph -7 of the said decision that the judgment proceeds on an assumption

that the petitioner (TISCO) was in possession of 0.64 decimal of land which was directed to be released from Respondent No. 4 (Respondent

No. 6 in the instant case) whereas in the instant controversy, the total area involved is 5.26 acres.

10. The next objection raised on behalf of the respondents is that the TISCO regained possession pursuant to an order passed u/s 50 of the

C.N.T. Act whereas Section 50(a) provides that the land can be released in favour of a landlord only if the authority is satisfied that he is desirous

of acquiring the holding or part thereof for some reasonable and sufficient purpose relating to such use of the land which is charitable, religious or

educational purpose or for the purpose of manufacturer or irrigation, after an enquiry, as the Deputy Commissioner may think necessary. It is only

in these circumstances, an acquisition in favour of the landlord and upon such conditions may be allowed by the Deputy Commissioner including

awarding compensation to the tenant and the compensation by the landlord is to be determined by the Deputy Commissioner u/s 50(b) of the

aforesaid Act.

11. Shri V. Shivnath has also laid emphasis on paragraph 13 of the decision reported in 1986 B.L.T. 220 to substantiate that the petitioner filed the

application u/s 50 for release of the land without substantiating that it was for any charitable, religious or educational purposes and also without

fixing any compensation. He has also stressed that even if the release is accepted then, it is only in respect of 0.64 decimal of land.

12. The State counsel Shri V.K. Prasad has argued that Bengal Kumar, who was the recorded tenant in revisional survey record of rights and,

therefore, was a raiyat. After BLR Act came into force, the land vested in the State and subsequent to deletion of Section 2B of the Act, the

petitioner- Tata Steel entered into a lease executed between the State of Bihar and Tata Company on 14.08.1984 and 01.08.1985 for a period of

40 years with effect from 01.01.1956. The lease expired on 01.01.1994 but subsequently a fresh lease was executed. The lease deed was

executed only when the Tata Company resiled from its earlier contention of being a tenure holder u/s 50 of the C.N.T. Act, 1908. After the lease

was entered into, between the State which was lessor and the petitioner- lessee, the lease was renewed on 20.08.2005 for a period of 30 years

with effect from 01.01.1996 and it subsists till 01.01.2025. Thus, the petitioners contention that the decision reported in 1986 BLT 220 is the

sheet anchor of the entire controversy is without any substance.

13. Learned counsel appearing on behalf of Respondent No. 8 has supported the arguments on behalf of Respondent Nos. 6 and 7.

14. I have carefully analyzed the arguments on behalf of the petitioner as well as the State counsel and also the Sr. Advocate appearing on behalf

of the contesting respondents and scrutinized the decision dated 23.09.1986 in C.W.J.C. Nos. 204, 205 and 202 of 1981(R). The law laid down

by the Patna High Court is only that subsequent proceedings u/s 6 of the Bihar Land Reforms Act, 1950 is not maintainable in case the applicant

had not contested the earlier proceedings. On a review of the entire facts as narrated in foregoing paragraphs, the admitted position is that vacant

land measuring 5.26 acres was given in cultivatory possession to Bengal Kumar. The petitioner claimed possession consequent to the land being

released u/s 50 of the C.N.T. Act much before the B.L.R. Act came into force. After deletion of Section 2B of the BLR Act and insertion of

Section 7D and 7E, the petitioner became lessee of the State. On the advent of the said Act, the entire land evidently vests in the State and the

State is the paramount landlord. Thus, once the petitioner entered into a lease with the State, obviously, it resiled from its stand that they were a

tenure holder of the land and was released u/s 50 of the C.N.T. Act. Besides, the land could be released only if it was sought to be released by the

petitioner for a specific purpose as detailed u/s 50(a) and only after paying compensation to the contesting respondents u/s 50(5) of the said Act,

who were in cultivatory possession. The petitioners have nowhere pleaded that they had paid any compensation whatsoever or the DCLR was

satisfied that the release of the land being asked for any charitable, educational or any other purposes, as required u/s 50. When the Miscellaneous

Appeal No. 10 of 1971-72 filed by the petitioner was dismissed, the petitioners were liable to challenge the said order in a suit u/s 87 before a

Revenue Officer, the factual controversy could be thrashed out in the appeal, which admittedly was not done. The provisions of Section 6 of the

BLR Act relates to fixation of fair rent in respect of the land which was under Khas possession of ex-landlord before vesting and the status of the

ex-landlord changes to that of the tenant under the State, who starts paying rent to the State as a tenant. In the instant case, a finding of fact has

been recorded in the impugned order dated 05.08.2002 that Tata Company was never in Khas possession of the disputed land. The petitioner

previously contested their claim that the land in question released u/s 50 of the C.N.T. Act and, therefore, no application u/s 6 of the BLR Act for

fixation of fair rent was preferred. It was in these circumstances, the State initiated a proceeding u/s 6 of the BLR Act for fixation of fair rent. It is

also an admitted fact that at the time before the final decision was pronounced by the Patna High Court in the writ petition reported in 1986 BLT

220, the petitioner had already acquired the status of lessee which is clearly mentioned in paragraph- 18 of the said judgment and the only question

that was decided in the said petition that the subsequent proceeding entertained by the revenue authorities was not maintainable. The genesis of the

present case arose when the petitioner filed an application u/s 83 of the C.N.T. Act contended inter alia that entry in the recent survey wherein the

disputed land is recorded in column 5 and 6 of the Record of Right as "Anabad Bihar Sarkar¹ which was registered as Case No. 467 of 1986

(Tata Iron & Steel Company Ltd. Vs. State of Bihar) and the same was dismissed by Assistant Settlement Officer in terms of the order dated

29.06.1991. The order impugned in the instant writ petition was on a fresh proceeding and it proceeds on the premise that since the forefathers of

respondent Nos. 6 and 7 were put in cultivatory possession, they continued to be in possession even after the BLR Act came into force. Name of

the contesting respondents was published in the survey records of right. Mere claim on the basis of release of the land u/s 50 of the C.N.T. Act is

not acceptable, more so when the petitioner has admittedly paid no compensation.

15. In my opinion, the petitioner-TISCO Ltd. being a lessee is not an aggrieved party to the order dated 05.08.2002 (Annexure- 7 to W.P.(C)

No. 1981 of 2003) whereby the order of Assistant Settlement Officer u/s 90 of the C.N.T. Act, in place of entry in the Record of Right, the State

Government has accepted Respondent No. 6 to be a riyat. There is no correction in the remarks column of finally published Record of Right of

the Leased Right of the petitioner. The petitioner is not claiming any title independently but claims only to be lessee under the State. The Assistant

Settlement Officer, on the basis of materials brought by the petitioner and Respondent No. 6, has given a finding of fact that Bengal Kumar was a

recorded riyat during 1937 survey, and also admitted by the petitioner. The petitioner has never brought any documents regarding fixation of rent

u/s 6 of the B.L.R. Act in favour of the petitioner or any document of deed of transfer by recorded tenants and delivery of possession u/s 50 of the

C.N.T. Act or any document regarding of payment of compensation u/s 50(5) of the C.N.T. Act. The petitioner did not produce any material

document before Respondent No. 5 that any payment was made as required u/s 50(5) of the C.N.T. Act to the recorded riyat or his successor.

Besides, the decision in the Patna High Court relates to a limited portion of land measuring 0.64 decimal. Moreover, the said decision only decides

that a second proceeding for fixation of rent u/s 6 of the BLR Act is not maintainable and, therefore, in my view, certain factual controversies

raised in the instant writ petition cannot be gone into. The petitioner is lessee in respect of the land and they cannot claim simultaneously raiyati

rights, is absolutely correct. There is no force in the writ petitions and accordingly, for the reasons already detailed hereinabove, the writ petitions

are dismissed.