
(2016) 09 JH CK 0044

JHARKHAND HIGH COURT

Case No: Writ Petition (C) No. 6575 of 2013

Akhilesh Kumar

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision: Sept. 26, 2016

Citation: (2016) 4 JCR 703 : (2016) 4 LJLR 354

Hon'ble Judges: Mr. Shree Chandrashekhar, J.

Bench: Single Bench

Advocate: Mr. Saurabh Shekhar, Advocate, for the Respondent Nos. 5-12; Mr. A.K. Sahani and Mr. Ajit Kumar, Advocates, for the Petitioner; Mr. Manoj Kumar, S.C. (Mines), for the State

Final Decision: Allowed

Judgement

Shree Chandrashekhar, J. - Respondent nos.5 to 12 have appeared through Mr. Saurabh Shekhar, the learned counsel. The State is represented through Mr. Manoj Kumar, S.C. (Mines).

2. Only plea raised by the writ petitioner, who was O.P. No.1 in Mutation Revision 109 R 15/2012-13, is that, without issuing notice to him or any other opposite party in the aforesaid Mutation Revision Petition, which was preferred against order passed in Mutation Appeal No.124 R 15/2011-12 challenging order dated 08.03.2011, the aforesaid Mutation Revision Petition was allowed.

3. Mr. Ajit Kumar, the learned counsel for the petitioner submits that the mutation application filed by the petitioner and others stood allowed and the appeal preferred against the said order was dismissed, however, Mutation Revision 109 R 15/2012-13 was allowed without hearing the petitioner and others.

4. Mr. Saurabh Shekhar, the learned counsel appearing for the respondent nos.5 to 12, however, submits that on admitted facts, no notice was required to be issued to the petitioner or others inasmuch as, Title Suit No. 266 of 2006 instituted by the respondent nos.5 to 12 is pending adjudication before the trial court and therefore,

during the pendency of the aforesaid title suit the Circle Officer could not have adjudicated the rights of the parties and passed order on mutation applications preferred by the petitioner and others.

5. A perusal of the proceeding in Mutation Revision 109 R 15/2012-13, vide Annexure-3 to the supplementary-affidavit dated 18.09.2015 reveals that the said revision petition was taken up on 28.02.2013 and it was adjourned for 08.03.2013 for consideration on the point of admission. On subsequent dates, that is, on 08.03.2013, 13.03.2013, 15.03.2013, 20.03.2013 and 03.04.2013 the matter was simply adjourned. The proceeding in the aforesaid revision petition does not disclose that notices were issued to the petitioner or others, however, on 17.04.2013 by a cryptic one line order, the matter was remanded to the lower court, on the point of admission. Order dated 17.04.2013 has ensued serious consequences to the petitioner and others, cannot be denied. The petitioner, in whose favour the Circle Officer passed an order and which order stood affirmed by the appellate authority, has valuable interest involved in the property in dispute and therefore, before the order passed by the appellate authority was interfered by the revisional authority, the petitioner must have been heard.

6. The aforesaid facts appearing from the proceeding in Mutation Revision 109 R 15/2012-13 are matters of record and have not been disputed by the respondent nos.5 to 12 in the counter-affidavit filed by them. Considering the aforesaid facts, the instant writ petition stands allowed. Order dated 29.05.2013 passed in Mutation Revision 109 R 15/2012-13 is set aside and Mutation Revision 109 R 15/2012-13 is restored to its original file. Parties are directed to appear before the revisional authority on 25.10.2016.

7. The writ petition stands allowed in the aforesaid terms.