

Arbind Kumar Vs. Collectariate

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Court : Jharkhand

Decided On : Jul-30-2013

Appellant : Arbind Kumar

Respondent : Collectariate

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W. P. (C) No. 4355 of 2013
--- Arbind Kumar ...Petitioner -Versus- The State of Jharkhand & anr.
.....Respondents. --- CORAM : HONBLE MR. JUSTICE APARESH KUMAR
SINGH --- For the Petitioner : Mr.Indrajit Sinha, Adv. For the Respondents : M/s.
Jai Prakash, A.A.G. & Mrs. Debolina Sen, J.C. to A.A.G. 02/30.7.2013 The
petitioner's BPLE. Appeal No. 4 of 2013 is pending before the Appellate Authority-
cum-Deputy Commissioner, Dhanbad against the order dated 25th June, 2012
passed by Circle Officer, Nirsa. The petitioner while preferring the appellate
remedy against the order has also approached this Court in the present writ
application. However, before the matter could be taken up by this Court, the
Appellate Authority has granted stay in respect of eviction of plots mentioned in
Title Appeal No. 33/95 claimed by the petitioner appellant. The petitioner at the
moment, however, has not been given any interim relief in respect of the plot no.
641 which are indicated in the notice dated 17th July, 2013 which was issued for
execution of the earlier order for removal of encroachment. Though the petitioner
has tried to make out a case for interim protection, but in respect of plot no. 641
the decree relied upon by the petitioner also does not cover the said plot no.

641. The title of the plaintiff under the said decree has been declared and his possession confirmed over the suit land except plot no. 733 & 641 area 37 and 44 decimals respectively. Therefore the order of the appellate authority cannot be said to suffer on account of any error of law or fact. Though the petitioner has tried to argue the case on merits before this Court, but in the circumstances, that the appellate proceedings are pending before Deputy Commissioner, Dhanbad and he has also passed interim order in respect of other plot in question, this court is not inclined to enter into the merits of the controversy for the reasons that not only such parallel proceedings should not be encouraged rather any observations made by this 2. Court in the writ petition on merits may also prejudice the case of the parties before appellate authority. Therefore, the writ petition is dismissed. However, the petitioner may pursue his grievances in the appellate forum before Deputy Commissioner, Dhanbad. Consequently, the I.A. No.5315 of 2013 also stands disposed of. (Aparesh Kumar Singh, J) jk

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