

Md Akhtar and Ors Vs. Ranchi Regional Development Authority Through Its Vice Chairman and Ors

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Court : Jharkhand

Decided On : Feb-10-2015

Appellant : Md Akhtar and Ors

Respondent : Ranchi Regional Development Authority Through Its Vice Chairman and Ors

Advocate for Pet/Ap. : Mr. Sharma

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI L.P.A. No. 296 of 2013 ---
1. Md. Akhtar, son of Late Nabi Baksh, Moulana Azad Colony, Lawadih, P.O.& P.S.-Namkum, Ranchi 2. Sada Nand Rai, son of Bhola Prasad Ray, Kantatoli Chowk, P.O.- Kantatoli, P.S.-Lower Bazar, Ranchi 3. Nafia Nisat, wife of Md. Maksud Alam, AG Colony, P.O.& P.S.-Doranda, Ranchi --- --- --- Appellants
Versus 1. Ranchi Regional Development Authority having its office at Pargati Sadan, P.O.- GPO- P.S.-Kotwali, Ranchi through its Vice Chairman 2. The Vice Chairman, Ranchi Regional Development Authority having its office at Pargati Sadan, P.O.- GPO- P.S.-Kotwali, Ranchi 3. The Estate Officer, Ranchi Regional Development Authority having its office at Pargati Sadan, P.O.- GPO- P.S.-Kotwali, Ranchi 4. The Executive Engineer, Ranchi Regional Development Authority having its office at Pargati Sadan, P.O.- GPO- P.S.-Kotwali, Ranchi 5. The Junior Engineer, Ranchi Regional Development Authority having its office at

Pargati Sadan, P.O.- GPO- P.S.-Kotwali, Ranchi 6. Madan Kumar Tiwary, son of Devendra Kumar Tiwary, near Ghosh Petrol Pump Kantatoli, P.O.- Kantatoli, P.S. Lower Bazar, Ranchi 7. Arun Kumar Tiwary, son of Devendra Kumar Tiwary, near Ghosh Petrol Pump Kantatoli, P.O.- Kantatoli, P.S. Lower Bazar, Ranchi 8. Sachindra Kumar Tiwary, son of Devendra Kumar Tiwary, near Ghosh Petrol Pump Kantatoli, P.O.- Kantatoli, P.S. Lower Bazar, Ranchi -- -- Respondents ---
CORAM: HON'BLE MR.JUSTICE VIRENDER SINGH, CHIEF JUSTICE HON'BLE MR.JUSTICE APARESH KUMAR SINGH --- For the Appellants: Mr. Sudhir Kr. Sharma, Advocate For the Respondent Nos 1-5: Mr. Prashant Kr. Singh, Advocate For the Respondent Nos. 6-8: M/s Delip Jerath, Rajesh Kumar, Advocates ---
Order No. 08: Dated 10th February 2015 Per Virender Singh, C.J.

(Oral): --- Appellants are the writ petitioners (for short hereinafter referred to as petitioners only). They approached the Writ Court through the medium of W.P.(C) No. 2984/2009 seeking recalling / withdrawing the order dated 25.04.2009, whereby building plan was sanctioned in favour of the respondent nos. 6 to 8 herein.

2. The main plea taken by the petitioners before the Writ Court was that the Ranchi Regional Development Authority (In short 'RRDA') had sanctioned the building plan in favour of the private respondents without verifying the 2 various documents produced by them and there was some misrepresentation of facts also before the RRDA.

3. Respondent-RRDA contested the writ petition on the ground that the petitioners could not produce any valid document claiming their title over the land for which the building plan was sanctioned, whereas private respondents had produced all the relevant documents regarding the land including the Sale Deed, Order of Mutation, Correction Slip, Rent Receipts, etc.

4. Learned Writ Court after considering all the relevant documents produced by the private respondents, ultimately held that the RRDA has rightly sanctioned the building plan in favour of the private respondents, therefore, declined to interfere with the aforesaid order dated 25.04.2009. This is how the writ petition filed by the petitioners came to be dismissed, aggrieved thereof, they are before us through

the medium of the instant Letters Patent Appeal in which, pursuant to the notice, Mr. Delip Jerath has appeared on behalf of the private respondents 6 to 8 and Mr. Prashant Kumar Singh appears for the RRDA.

5. Heard learned counsel for both the sides, gone through the impugned judgment and other relevant documents including the Writ Court record.

6. At the very outset, Mr. Delip Jerath, learned counsel appearing for the private respondents, submitted that the petitioners had filed a civil suit for declaration with regard to the property in question which was ultimately dismissed, aggrieved thereof, an appeal being F.A. No. 193/2009 was filed in which an Interlocutory Application under Order 39 Rule 1 & 2 read with section 151 CPC was also filed praying therein to restrain the private respondents from creating third party rights and restraining them from making alienation of the said property. The said application was dismissed by the appellate court vide order dated 25.01.2010. Being dissatisfied with the 3 said order, an S.L.P.(Civil) No.16487 of 2010 was preferred before Honble Apex Court which also was dismissed, however, with a direction to the Appellate Court to decide aforesaid F.A. No.193/2009 expeditiously. Mr. Jerath submitted that the petitioners thereafter moved another application being I.A. No.1140/2011 with the same prayer, which has once again been dismissed by the appellate court vide order dated 04.02.2013. However, the main appeal is posted for final hearing. He places on record photostat copy of the order dated 04.02.2013 (be tagged at its proper place).

7. Mr. Sharma, learned counsel for the petitioners submitted that so far as civil suit is concerned, that is with regard to the title of the suit property for which F.A. is pending, but the main grievance projected by the petitioners before the learned Writ Court was that the building plan has been sanctioned in favour of the private respondents on misrepresentation of certain facts, which aspect has not been looked into by the R.R.D.A. The learned Writ Court has also not considered that aspect.

8. We are not in agreement with the submissions advanced by the learned counsel for the petitioners. The impugned order reflects that the learned Writ Court has considered all the aspects and the material on record and thereafter returned a

categoric finding to the effect that the order dated 25.04.2009 whereby the building plan has been sanctioned in favour of the private respondents, does not suffer from any illegality or arbitrariness. We have also perused the said order annexed as Annexure-9 and available on page 131 of the paper book and find no infirmity in the same. In our considered view, the objection raised by the petitioners before the Commissioner vis--vis dispute over the title was not sustainable, being an issue to be decided by Civil Court only, as such the said objection was rightly rejected and the learned Writ Court has also taken this aspect in the impugned judgment.

9. Viewed thus, we do not find any infirmity in the impugned judgment 4 calling for our indulgence in the instant Letters Patent Appeal. The same is dismissed accordingly. (Virender Singh, C.J.) (Aparesh Kumar Singh, J)
Ranjeet/Kamlesh/LAK

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