

Manorma Devi Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Feb-15-2008

Reported in : [2008(2)JCR172(Jhr)]

Judge : R.K. Merathia, J.

Appellant : Manorma Devi

Respondent : State of Jharkhand and ors.

Disposition : Petition allowed

Judgement :

ORDER

R.K. Merathia, J.

1. Heard the parties finally.
2. Petitioner has challenged the order dated 19.4.2002 passed by the Land Reforms Deputy Collector (L.R.D.C.), Barhi at Hazaribagh respondent No. 5 (Annexure 5).
3. Jageshwar Sao, the predecessor in interest of respondents No. 5 to 9 (private respondents) filed a petition for cancellation of jamabandi running in the name of petitioner before the L.R.D.C. Koderma, Hazaribagh which was registered as Misc. Case No. 2 of 1985-86. By order dated 27.11.1987, the L.R.D.C. dismissed the

said petition after considering the materials placed before him and after hearing the parties. He held that petitioner was in possession and Jageshwar Sao was not in possession. Against the said order an appeal was filed in which the case was remanded by order dated 18.5.1988. After remand, the L.R.D.C. Koderma after hearing the parties, affirmed his earlier order, by order dated 31.7.1989 (Annexure-2) holding that jamabandi in the name of petitioner has validly been opened and it should continue and further directed to amend the jamabandi running in the name of the Jageshwar Sao. Against the said order Jageshwar Sao preferred an appeal being M.A. No. 72 of 1989 before the Additional Collector. Hazaribagh who after hearing the parties, by his order dated 3.7.1991 dismissed the appeal with an observation the Jageshwar Sao may file suit, if so advised. However, Jageshwar Sao filed a revision before the Commissioner. North Chhotanagpur Division at Hazaribagh being Revision Application No. 48 of 1991 which was also dismissed on 16.1.1996 after considering the respective cases of the parties.

Thus, it was consistently held that petitioner was in possession and the predecessor in interest of private respondents was not in possession. However, it was observed that if Jageshwar Sao was aggrieved, he could move Civil Court.

4. Pursuant to the said orders, petitioner filed an application for issuing rent receipts before the Circle Officer which was referred to the L.R.D.C. Barhi Hazaribagh. The L.R.D.C. Barhi. Hazaribagh on the basis of a purported inspection report, held that as both parties are claiming possession over the premises in question, it was not possible to give effect to the said order dated 16.1.1996, passed by the Commissioner. The L.R.D.C. then proceeded to the extent of re-examination of the basis of creation of jamabandi. Ultimately, he observed that the question of title being involved, petitioner may file suit.

5. Mr. B.V. Kumar, appearing for the private respondents and the learned Counsel for the State supported the order and submitted that petitioner has got alternative remedy by way of appeal.

6. The impugned order amounts to setting aside the earlier orders passed by the predecessor L.R.D.C., confirmed by the Additional Collector and the

Commissioner. As the impugned order is wholly untenable, I am not inclined to ask the petitioner to file appeal. Moreover, this writ petition is pending in this Court for about five years, by now. Accordingly, the impugned order dated 19.4.2002 is set aside. The concerned authority will pass order on the application of the petitioner for fixation of rent and issuance of rent receipts as per the said orders passed by the L.R.D.C. on 31.7.1989, the order dated 3.7.1991 by Additional Collector and the order dated 16.1.1996 passed by the Commissioner.

Mr. Kumar apprehends that the findings of revenue authorities may prejudice the case of the private respondents before Civil Court. It is a settled position that the findings recorded in the revenue proceedings are not binding on the Civil Court.

7. With these observations and directions, this writ petition is allowed, however, without costs. Petition allowed.

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