

Bajiram Panda Vs. the Steel Authority of India Ltd., Represented by Its Chairman and anr.

Bajiram Panda Vs. the Steel Authority of India Ltd., Represented by Its Chairman and anr.

SooperKanoon Citation : sooperkanoon.com/532856

Court : Orissa

Decided On : Jul-17-1991

Reported in : 1991(II)OLR258

Judge : S.C. Mohapatra, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Order 6, Rule 17

Appeal No. : Civil Revision No. 395 of 1990

Appellant : Bajiram Panda

Respondent : The Steel Authority of India Ltd., Represented by Its Chairman and anr.

Advocate for Def. : R.K. Mohapatra, B. Routray, S.K. Nayak, P.K. Das, C.R. Ray and S. Swain

Advocate for Pet/Ap. : Y. Das and N.C. Mohanty

Disposition : Petition dismissed

Judgement :

S.C. Mohapatra, J.

1. This revision arises out of an order refusing the prayer to amend the plaint. Plaintiff filed the suit in the year 1987 for declaration of his right over the suit land of which the sketch was attached to the plaint and for permanent injunction against the defendants from interrupting with his peaceful possession. He obtained temporary injunction. Suit was posted to 20-8-1987 for settlement of issues. When the suit was heard on settlement of issues on that date plaintiff could have known the deficiencies in the plaint which he seeks to remove now by amendment. He did not take any step at that stage and issues were settled. Suit was posted for hearing on 25-11-1987. For getting ready in hearing of the suit, plaintiff could have known deficiency if any in the plaint also. At that stage no step was taken. Lastly, on 16-4-1990 plaintiff filed an application for amendment of the plaint which having been rejected on 25-4-1990 by the impugned order, this Civil Revision has been filed.

2. There is no dispute that plaintiff has no title to the land. It is stated that finding the land vacant, plaintiff established a nursery and is continuing in possession of the same as of right openly as a result of which title of defendants if any was relinquished and he is to continue in possession as real owner in possession, on account of adverse possession. According to plaintiff, encroachment or unauthorised occupation if any for a long time has the effect of relinquishment of title of the State Government or Steel Authority of India. When a suit by any of them would have been barred by limitation, defendants should be restrained from interfering with his possession.

3. Land in possession of plaintiff has been described in a sketch map. Since a sketch map has already been given in the plaint, plaintiff can always prove his possession in respect of the land as indicated in the sketch map which plaintiff does not say to be wrong. He may explain how description of the suit land with wrong plot numbers in the plaint crept in. For this purpose, no amendment of plaint is necessary. Assertion of plaintiff that he is in possession of the disputed lands since 1954 is sought to be amended to a later date. In case, plaintiff adduces evidence that he is in possession from a later period, such evidence may not be thrown out merely because he asserted that he is in possession from 1954. I, however, express no opinion in the matter as plaintiff is to satisfy all the

ingredients of adverse possession. I can only observe that evidence of possession shall not be refused to be recorded merely because it would be from a later period. In such circumstances, I am satisfied that trial Court is correct in refusing the plaint though the reasons indicated in the order may not be wholly correct.

4. In the result, there is no merit in this Civil Revision which is accordingly, dismissed with aforesaid observations. No costs. Send back the L.C. R. at once.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com