IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(C) No. 662 of 2021

Chandramohan Singh Petitioner

Versus

- 1. The State of Jharkhand through the Chief Secretary
- 2. The Deputy Commissioner, Ramgarh
- 3. The District Welfare Officer, Ramgarh
- 4. The Circle Officer, Gola, District- Ramgarh

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner :- Mr. Sarju Prasad, Advocate

For the State :- Mr. Ashish Kumar Thakur, A.C. to A.A.G.-III

Order No. 02 Dated: 10.03.2021

The present case is taken up today through Video conferencing.

2. The present writ petition has been filed for quashing the entire proceeding of Land Encroachment Case No. 01 of 2020-21 pending before the Circle Officer, Gola (the respondent no. 4) in which notice under Section 3 of the Bihar (now Jharkhand) Public Land Encroachment Act, 1956 (in short "the Act, 1956") has been published in hindi daily newspaper "Hindustan" dated 14.10.2020 (Annexure-7 to the writ petition). Further prayer has been made to stay the aforesaid notice during the pendency of the writ petition.

3. Learned counsel for the petitioner submits that the land of khata no. 24, plot no. 59, Mouza- Bantara, District- Ramgarh measuring an area of 1.28 acres (hereinafter to be referred as "the said land") is recorded as "Bakast Khata" in the name of Ram Singh son of Bashwa Singh (grandfather of the petitioner) in the survey Khatiyan. After vesting of Jamindari system, the same was found to be in khas possession of Ram Singh and Jamabandi was opened in his name by the then circle officer after duly verifying his possession over the said land. The said Jamabandi is still running in the name of Ram Singh as mentioned in Page no. 29/1 of Jamabandi Register maintained in the concerned circle office. The last rent receipt was also issued to the petitioner with respect to the said land in the year 1991. The petitioner being the descendant of Ram Singh is the lawful owner of the said land, however the respondent no. 4 has started taking steps for constructing a market complex over the said land. In the said process, he also issued letter no. 1483 dated 04.09.2018 seeking no objection from the District Welfare Officer, Ramgarh (the respondent no. 3) in response to which, the said respondent informed the respondent no. 4 vide letter no. 850 dated 04.09.2018 that except copy of gazette notification intending to acquire the land for public purpose, no further document was available in his office. It is further submitted that the land in question was never acquired by the State Government and the petitioner/his predecessor-in-interest have been in continuous possession of the same. It is highly arbitrary on the part of the respondent no. 4 to initiate a land encroachment proceeding in absence of any document showing that the said land is a public land.

- **4.** Mr. Ashish Kumar Thakur, learned A.C. to A.A.G.-III appearing on behalf of the respondents, submits that the writ petition preferred by the petitioner is pre-matured as the petitioner and other persons may appear before the respondent no. 4 in pursuance of notice issued under Section 3 of the Act, 1956 along with relevant documents and put forth their defence.
- that a land encroachment proceeding being Land Encroachment Case No. 01/2020-21 has been initiated by the respondent no. 4 by issuing notice to the petitioner and other persons under Section 3 of the Act, 1956 (Annexure-7 to the writ petition), without entering into the merit of the case, the petitioner is given liberty to appear in Land Encroachment Case No. 01 of 2020-21 along with relevant documents to put forth his defence. Thereafter, the respondent no. 4, after providing due opportunity of hearing to the petitioner/his representative, shall pass appropriate order in accordance with law as expeditiously as possible, preferably within a period of three months from the date of receipt/production of a copy of this order. Till the said order is passed by the respondent no. 4, no coercive action shall be taken against the petitioner for his eviction from the said land in connection with Land Encroachment Case No. 01 of 2020-21.
- **6.** The writ petition is accordingly disposed of with aforesaid liberty and direction.

(Rajesh Shankar, J.)

Ritesh/-