

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.202 of 2018

Shakti Pada Das son of Late Bharat Chandra Das, resident of village-
Roladih, P.O.- Juri, P.S.- Potka, District- East Singhbhum

... Petitioner

Versus

1. The State of Jharkhand.
2. Deputy Commissioner, East Singhbhum, P.O. and P.S.- Sakchi, Town- Jamshedpur, District- East Singhbhum.
3. Sub Divisional Officer, Dhalbhum, P.O. and P.S.- Sakchi, Town- Jamshedpur, District- East Singhbhum.
4. Circle Officer, Potka, P.O. and P.S.- Potka, District- East Singhbhum.
5. Karyalaya Mantri, District Bhoojan Yagna Office, P.O. and P.S.- Chaibasa, West Singhbhum. ... Respondents

For the Petitioner : Mr. Saibal Mitra, Advocate
Mr. Syed T. Sajid, Advocate
For the Resp. Nos.1 to 4 : Mr. Mithilesh Singh, GA IV

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:- Heard the parties.

2. This Writ Petition has been filed under Article 226 of the Constitution of India with two fold prayers:-

(I) The first prayer is to set aside the letter No.542 dated 04.08.2017 issued by the Circle Officer, Potka by which the Circle Officer has refused to assess/fix the rent under Section 18 of the Bihar Bhoojan Yagna Act, 1954 for the land of the petitioner situated at village- Juri, Thana No.1367, Revenue Thana- Potka, P.S.- Potka, District- East Singhbhum, Khata No.700, Plot No.797, area 1.41 acres which the petitioner has got under the provision of Bihar Bhoojan Yagna Act, 1954 (hereinafter referred to as the case land).

(II) The second prayer is to the issue appropriate writ/writs, order/orders, direction/directions commanding the concerned respondents to assess/fix rent under Section 18 of the Bihar Bhoodan Yagna Act, 1954 in respect of the case land.

3. The case of the petitioner in brief is that the petitioner was a landless person. The petitioner got the case land as per Section 14 (1) of the Bihar Bhoodan Yagna Act, 1954. The respondent- State was duty bound to assess the rent of the land of Bhoodan tenant who has got the land as per Section 18 of the Bihar Bhoodan Yagna Act, 1954. After getting Bhoodan certificate in the year 1980, the petitioner got possession of the case land and has been continuously doing agriculture on the land. The petitioner submitted an application to the Circle Officer, Potka for assessment/fixation of the rent of the case land but the Circle Officer, Potka did not assess/fix the rent of the case land of the petitioner. The petitioner filed W.P. (C) No.3512 of 2015. Vide order dated 20.03.2017, the co-ordinate Bench of this Court disposed of the said writ petition with a direction to the competent authority/respondent No.4- Circle Officer, Potka to consider and decide the application of the petitioner in respect of the grievance after due verification of the record within a reasonable time preferably 16 weeks from the date of receipt of copy of the order. The Circle Officer, Potka intimated the petitioner on 04.08.2017 vide letter No.542, the copy of which has been kept at Annexure-10 to this Writ Petition, that the land in question has already been settled in favour of two Raiyats in the year 1988-89, hence, it will not be proper to fix the rent in respect of the case land in favour of the petitioner. It is alleged that the said order of the Circle Officer, Potka is against the mandatory provisions of Bihar Bhoodan Yagna Act, 1954.

4. Therefore, it is submitted by the learned counsel for the petitioner that the prayer made in this Writ Petition be allowed.

5. Learned counsel for the respondent-State on the other hand submits that the case land has already been settled with Paresh Sardar vide Settlement Case No.269 of 1988-89 and Chandra Shekhar Naiyak vide Settlement Case No.423 of 1988-89 and no land has been left to be settled with the petitioner. It is next submitted that even after knowing pretty well that the case land has been settled in favour of Paresh Sardar and Chandra Shekhar Naiyak, the petitioner has not made any prayer for cancellation of the same nor arrayed Paresh Sardar and Chandra Shekhar Naiyak as parties to this Writ Petition and certainly behind their back the settlement made in their favour cannot be cancelled. Hence, it is submitted that this Writ Petition, being without any merit, be dismissed.

6. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, the undisputed fact remains that the case land has been settled in favour of Paresh Sardar and Chandra Shekhar Naiyak by two settlement cases. Though the petitioner claims to be in possession of the case land but it remains incongruous that if the said settlement of the petitioner is treated to be true, how the land of the petitioner has been settled in favour of Paresh Sardar and Chandra Shekhar Naiyak without any notice to the petitioner. So, certainly the disputed facts are involved. The same cannot be adjudicated in this Writ Petition.

7. Accordingly, this Writ Petition is disposed of with liberty to the petitioner to approach the Circle Officer, Potka by filing appropriate application for cancellation of the settlement made in favour of Paresh Sardar and Chandra Shekhar Naiyak; on the basis of the claim of the petitioner of the

Bhoodan Settlement and the possession claimed by the petitioner over the case land and in case such an application is filed, the Circle Officer, Potka will consider the same in accordance with law after issuing notice to Paresh Sardar and Chandra Shekhar Naiyak.

8. It is made clear that this Court has not expressed any opinion regarding the entitlement of the petitioner for fixation/assessment of the rent of the case land, in his favour.

9. This Writ Petition stands disposed of accordingly.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 30th January, 2024
AFR/ Animesh