

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W. P. (C) No. 5103 of 2008

1. Shyam Narayan Tiwary					
2. Sachida Narayan Tiwary					
3. Sankat Mochan Tiwary			Petitioners
Versus					
1. The State of Jharkhand.					
2. The Deputy Commissioner, Ranchi.					
3. The Sub Divisional Officer, Ranchi.					
4. The Land Reforms Deputy Collector, Ranchi.					
5. The Circle Officer, Ranchi.					
6. Executive Engineer, NREP-II, Ranchi.					
7. Buter Singh @ Arbind Singh Dewal					
8. Administrator, Ranchi Municipal Corporation, Ranchi.					Respondents
With					
Contempt Case (C) No. 218 of 2011					

1. Shyam Narayan Tiwary					
2. Sachida Narayan Tiwary					
3. Sankat Mochan Tiwary			Petitioners
Versus					
1. State of Jharkhand.					
2. Anil Kumar					
3. Buter Singh			Opp. Parties

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioners	: Mr. Vibhor Mayank & Oishi Das, Advocates
For the State	: Mr. Rahul Saboo, AC to GP-II
	Mr. Abhilash Kumar, AC to GP-II

Oral Order

09 / Dated : 26.02.2024

1. The instant writ petition has been filed under Article 226 of the Constitution of India for quashing the letter dated 16.09.2008/17.09.2008 issued by the Deputy Commissioner, Ranchi (R-2) for construction of PCC Road claimed by the petitioner. Further prayer has been made to issue rent receipt in favour of the petitioner as per the direction of this Court in CWJC No. 2171 of 2000(R).

PETITIONER'S CASE

2. The petitioners claim exclusive possession over Plot Nos. 1996, 1997, 1998 and 1999 under Khata No. 362 situated at Village Misirgonda @ Pahargonda which was settled with the father of the petitioner by the ex-landlord on 07.01.1942.
3. In 1990 by way of interpolation, the name of one Damyanti Devi was fraudulently entered in Register-II. The petitioners filed Title Suit No. 136 of 1990 in the court of learned Munsif, Ranchi against Damyanti Devi and others for declaration of sale deed dated 27.05.1987 executed by her as void and illegal.

The said suit was decreed in favour of the petitioners and attained finality after dismissal of first and second appeal.

4. After disposal of second appeal, the petitioners moved this Court in CWJC No. 2171 of 2000[R] for correction of Jamabandi in Register-II wherein the name of Damyanti Devi was illegal entered. The writ petition was disposed of by order dated 27.03.2002 with a direction to the LRDC, Ranchi to re-consider the application of the petitioners for correction of Jamabandi in the light of observations and directions made in the said writ petition.
5. LRDC, Ranchi transferred Misc. Case No. 05/ 2003-04 to the SDO for final disposal and by order dated 20.10.2005, the order was passed in favour of the petitioner for making necessary correction in the Jamabandi and also for issuance of rent receipt. The claim over the land of the State that it was a Sairat land was also turned down by the SDO. In pursuance of the order of SDO, the name of the petitioners was entered in Register-II.
6. The main grievance of the petitioners is that, despite the petitioners having been recognized as raiyats over the land in question, and entries having been made in Register-II, the Deputy Commissioner, Ranchi by the impugned letter directed construction of PCC road over their raiyati land, without acquiring the same.
7. It is also submitted that the Co-ordinate Bench of this Court vide order dated 03.11.2010 restrained the State Authority from making construction over the land in question till further orders. Continuing in construction of the road, was in defiance to the order of this Court.
8. Definite stand of the State as taken in the counter affidavit at para 13 is that the proposal for making construction of PCC road over the said land was in view of the fact that the pond/tank was listed in the Sairat register, the Deputy Commissioner vide Letter No. 2540(ii) Rev. dated 17.09.2008 initiated a proceeding being Misc. Case No. 08/2008-09 for annulment of demand created in Register-II, in respect of disputed tank of Misirgonda. It is also stated that the said road has been constructed in public interest by MLA fund.
9. The main dispute/ issue is with respect to Plot Nos.1998 and 1999 under Khata No.362 over which it has been claimed by the petitioner(s) that PCC road has been constructed in defiance to the earlier order dated 03.11.2010 passed by this Court, as well as for direction to issue rent receipt in favour of the petitioners passed in CWJC No.2171 of 2000 [R] with respect to different plots including these plots.
10. In this regard, a report was called for from the Circle Inspector by this Court vide order dated 12.02.2024, Hehal, Ranchi, whether any PCC road has been

constructed over Plot Nos.1998 and 1999 and if such road has been constructed, when the work order for such construction was issued.

11. A show cause has been filed by the Circle Inspector, Hehal, Ranchi in compliance to the order, wherein it has been stated that spot verification was conducted on 22.02.2024 and it was found that 300 feet unpaved road and 170 feet PCC road, had been constructed over the said plots of land. It has further been stated in the show cause that the said road was constructed by the Ranchi Municipal Corporation and the work order was also issued by it and the Opp. Party had no role to play in it. Lastly, it has been contended that the said land was Government land.
12. The plea, as taken by the learned counsel for the State that the land, in question, was Government land is not tenable for the reason that in Misc. Case No.05/2003-04 (Shyam Narayan Tiwary & Ors. vs. State of Jharkhand & Ors.) Sub Divisional Officer, Sadar, Ranchi held that the said land had been mistakenly settled as Sairat, and an auction was also attempted to be held, which was objected by lessee of Yogendra Nath Tiwary, namely, Manga Oraon. After verification of the record, the auction was cancelled on recommendation of the C.O., Kanke, said Yogendra Nath Tiwary was accepted as raiyat of the said plot vide order dated 20.10.2005.
13. The aforesaid order was passed pursuant to the direction of this Court in CWJC No.2171 of 2000 [R]. Considering the said report of the SDO, Sadar, Ranchi, the said CWJC was ordered in favour of Shyam Narayan Tiwary with a direction to the L.R.D.C., Sadar, Ranchi to reconsider the application of the petitioner for correction of Jamabandi in the light of the observation made in Para-9 of the said CWJC, which reads as under :-

9. Having regard to the aforementioned facts, I am of the view that if the petitioner is able to satisfy the revenue authorities that before the interpolation was made in the revenue records in 1996 Jamabandi was running in the name of the petitioner or his predecessor in- interest and they were always treated as a raiyat in possession of the land together with tank and embankments by the State of Bihar, then certainly the petitioner's claim for correction of jamabandi on the basis of the decree passed by the civil court cannot be refused. The matter, therefore, needs reconsideration by the Land Reforms Deputy Collector, Ranchi.

14. In pursuant to the order passed, the petitioner(s) filed an application before the LRDC, Ranchi and the matter was referred to the Sub Divisional Magistrate, Ranchi and vide order dated 20.10.2005 in Misc. Case No.05/2003-04 (Shyam Narayan Tiwary & Ors. vs. State of Jharkhand & Ors.) whereby the order was passed in favour of the petitioner(s) holding therein that these plots had been entered in Register II in the name of Yogendra Nath Tiwari and by mistake,

his name was deleted and, therefore, direction was issued for making necessary correction in Register II.

15. In pursuant to the direction, necessary correction in Register II was made and rent receipts were issued in the name of the petitioner(s). Despite the same, the land, in question, is being claimed as Government land which is not tenable in the facts and circumstances of the case.
16. Under these circumstances, Letter dated 16.09.2008/ 17.09.2008 of the Deputy Commissioner, Ranchi for construction of PCC road over Plot Nos.1998 and 1999, Khata No.362, situated at Village Misirgonda @ Pahargonda is quashed.

Further, rent is directed to be accepted for these plots being Plot Nos.1998 and 1999, Khata No.362, situated at Village Misirgonda @ Pahargonda by issuing rent receipts for the same.

PCC road which has been constructed over the said plot either be restored to the petitioner(s), by removing the construction made over it, or to initiate land acquisition proceeding(s) so as to compensate the petitioner(s) for the part of the land for which road has been constructed within a period of eight weeks from today.

The instant Writ Petition is allowed.

The contempt proceeding is dropped.

(Gautam Kumar Choudhary, J.)

AKT/ Sandeep