

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.5566 of 2017

1. Lal Jay Kumar Nath Shahdeo

2. Ram Krishna Nath Shahdeo

Both Sons of Late Beni Nath Shahdeo, Resident of 65, Palkot House, Kishoreganj Chowk, Harmu Road, Ranchi, P.O.: Harmu, P.S.: Kotwali, District: Ranchi

... Petitioners

Versus

1. The State of Jharkhand, represented through Secretary, Land & Revenue, Govt. of Jharkhand, At: Project Building, HEC, P.O.: Dhurwa, P.S.: Jagarnathpur, District: Ranchi.

2. The Commissioner, South Chhotanagpur Division, Ranchi, At: Commissioner Office, P.O.: G.P.O, P.S.: Kotwali, Ranchi, District: Ranchi.

3. The Deputy Commissioner, Ranchi, P.O.: G.P.O, P.S.: Kotwali, Ranchi, District: Ranchi.

4. The Additional Collector, Ranchi, P.O.: G.P.O, P.S.: Kotwali, Ranchi, District: Ranchi.

5. The Sub-Divisional Officer, Ranchi, P.O.: G.P.O, P.S.: Kotwali, Ranchi, District: Ranchi.

6. The Circle Officer, Nagri Circle, P.O. & P.S.: Nagri, District: Ranchi.

... Respondents

For the Petitioner

: Mr. Mahesh Tewari, Advocate

For the Respondents

: Mr. Jayant F. Toppo, GA V

Mr. A. R. Kisku, AC to GA V

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 several prayers but the learned counsel for the petitioner submits that the petitioner abandons all his prayers except that a writ in the nature of *mandamus* be issued commanding upon the respondents to accept the rent and cess in connection with 2 acres of land of Khata No.383, Plot No.492, area 2 acres, Mouja- Pundag, District- Ranchi.

3. The brief facts of the case is that the said land appertaining to Khata No.383, Plot Nos.492 & 496, Area 88 acres was recorded in the Record of Rights in the name of Baralal Kandarp Maheshwar Nath Shahdeo as "*Gairmajarua Malik*". The ex-landlord subsequently settled the said land in the name of Maheshwar Nath Sahdeo by virtue of Sada Settlement in 1943 followed by rent acceptance and issuing receipt therefor as well as delivery of possession. In the year 1948, the ex-landlord created the trust in the name and style of Chintamani Trust in respect of the properties by virtue of registered deed dated 19.08.1948. The vendor of the petitioners used to pay rent to Chintamani Trust and after vesting of the said land under the provisions of Bihar Land Reforms Act, 1950, demand in respect of the said land was opened in the name of Maheshwar Nath Shahdeo and he was paying rent to the State. The petitioner purchased 2 acres of land out of 88 acres of land from Maheshwar Nath Shahdeo by a registered sale-deed dated 22.10.1962 and came in peaceful cultivating possession thereof. They applied for mutation. The name of the petitioner No.1 was mutated in the Sarista of the State. Only the name of the petitioner No.1 has been mutated in the Register-II due to inadvertence even though the land was purchased by the petitioners. The petitioners, thus, being

in peaceful cultivating possession, due to financial constraints, could not deposit the rent and obtain the rent receipt. The State passed orders whereby the Jamabandi running in the name of the vendor of the petitioners has been cancelled without giving any notice to the petitioners. After coming to know about the facts of the case, similarly situated persons as that of the petitioners challenged the order and finally the matter was heard by a co-ordinate Bench of this Court in W.P. (C) No.4895 of 2007 and vide order dated 31.03.2008, the co-ordinate Bench of this Court quashed the order of cancellation of the Jamabandi. Despite the fact that the order for cancellation of the Jambandi running in the name of the vendor of the petitioners namely Maheshwar Nath Shahdeo, the State is not accepting the cess and rent nor issuing rent receipt to the parties. Though the respondent- State has accepted the rent and issued the rent receipt in respect of the writ petitioner of W.P. (C) No.283 of 2011 but the respondent is not accepting the rent from the petitioners. Hence, it is submitted that the prayer as made in this Writ Petition, be allowed.

4. Learned counsel for the respondent- State submits that since the land of Mouza- Pundag stands recorded as *Gair Majrua Malik* land in Revisional Survey Record of Rights, hence, the nature of land has been recorded as 'Tungri' in the Revisional Survey Record of Rights. Hence, the same cannot be settled with any person as the *Gair Majrua Malik* lands are Government property. It is next submitted that the entire *Gair Majrua Malik* land has been vested in the State free from all encumbrances under Section 3 and 4 of the Bihar Land Reforms Act, 1950 and the State Government is deemed to have come in possession over the lands in question by way of its statutory rights. It

is next submitted that the Jamabandi of the land of Mouza Pundag, Khata No.383, Plot No.492, Area 88 Acres running in the name of Late Maheshwar Nath Shahdeo was created by an order of competent authority so, the Jamabandi has been held to be illegal and the Circle Officer has been directed to cancel the Jamabandi. Hence, it is submitted that this Writ Petition, being without any merit, be dismissed.

5. 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 co-ordinate Bench of this Court in the case of **Smt. Kanak Kumari Devi & Another vs. The State of Jharkhand & Others** passed in W.P. (C) No.4895 of 2007 dated 31.03.2008 has quashed the order cancelling longstanding Jamabandi keeping in view of the well settled principle of law that a long running Jamabandi cannot be cancelled unless fraud and misrepresentation is established in opening Jamabandi creation and that the orders in Misc. Case No.58/2002-03 dated 02.02.2012 was passed against a deceased person namely Late Maheshwar Nath Shahdeo.

6. Learned counsel for the respondents fairly submits that the State of Jharkhand has not preferred any appeal against the said order dated 31.03.2008 passed by the co-ordinate Bench of this Court in the case of **Smt. Kanak Kumari Devi & Another vs. The State of Jharkhand & Others (supra)** passed in W.P. (C) No.4895 of 2007. So, the order of cancellation of Jamabandi standing in the name of the vendor of the petitioner no more exist because of the order passed by the co-ordinate Bench of this Court in the said W.P. (C) No.4895 of 2007. It is pertinent to mention here that it is a settled principle of

law that the entry in the revenue record do not create or extinguish title in favour of the person whose name has been recorded in the revenue records. Such entries are basically for fiscal purposes. As the order dated 31.03.2008 passed in W.P. (C) No.4895 of 2007 has reached finality so the consequence is that the cancellation of the Jamabandi of the vendor of the petitioner has been set at naught and is no more in force. Though the respondent-State, claims that the land has been vested with it, but it is surprising that it has not done anything to take possession of the land in question. Therefore, this Court is of the considered view that this is a fit case where a writ of *mandamus* be issued directing the respondent No.6 to accept the rent and cess of the land in question from the petitioner No.1 and to issue receipts thereof.

7. Accordingly, a writ of *mandamus* is issued directing the respondent No.6 to accept the rent and cess of the land in question from the petitioner No.1 and to issue receipts thereof.

8. Accordingly, this Writ Petition stands disposed of.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 25th of June, 2024
AFR/ Animesh