



IN THE HIGH COURT OF JHARKHAND AT RANCHI
CWJC No. 2363 of 1998 [R]

2019:JHHC:39971

1. Ashok Kumar
2. Nand Kishore Kumar
3. Surendra Kumar
4. Dinesh Kumar
All sons of Late Aghnu Dhobi
5. Smt. Laxmi Devi, Widow of Late Aghnu Dhobi
All residents of Village- Kanke, PS- Kanke, District- Ranchi.
.... .. Petitioners(s)

Versus

1. The State of Bihar
2. Commissioner, South Chotanagpur Division, Ranchi.
3. Additional Collector, Ranchi.
4. Special Regulation Officer, under Schedule Area Regulation Act, Ranchi.
5. Chaman Mahto
6. Kunju Mahto
7. Khasu Mahto @Derhu Mahto
8. Mahli Mahto
All sons of Late Mangal Mahto.
9. Martin Kujur, S/o Late Madho Kujur
10. Smt. Sunila Kujur, W/o Martin Kujur
11. Madiya Oraon, W/o Late Gandura Oraon
12. Budhua Oraon, S/o Late Jhenga Oraon
5 to 12 by caste Oraon, R/o Kanke Churi Tola, PS- Kanke, District- Ranchi.
.. ... Respondent(s)

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CORAM : HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

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 For the Petitioners (s) : Mr. Vibhor Mayank, Advocate
 For the Resp.11 & 12 : Mr. Ajit Kumar Sinha, Advocate

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21/ 10.07.2025. Heard, learned counsel for the parties.

1. The instant Writ Petition has been filed for quashing the order passed by the Respondent No.2 in Ranchi Revenue Revision No.133 of 1994 whereby and whereunder the order passed by the SAR Court/Officer in S.A.R. Case No.200 of 1976 and in its S.A.R. Appeal No.54 R 15 of 1981-82, has been reversed and restoration order has been passed in favour of Respondent Nos.5 to 8.
2. The challenge to the impugned order is three fold. It is submitted by learned counsel for the petitioners that the jurisdiction of revisional court is confined to the question of law and not with regard to question of fact. Both the SAR Court and SAR Appellate Court have disposed of, the restoration application filed under Section 71 A of the Chotanagpur Tenancy Act, 1908 in terms of 2nd proviso by awarding compensation in favour of Respondent Nos.11 and 12.



3. The said order was passed considering the fact that transfer had taken place more than 30 years before, and transferee had constructed substantial structure over the land, in question.
4. The subject matter of the restoration case was with regard to Plot No.651 which was allotted in the share of Respondent Nos.11 and 12 in view of the judgment and decree passed in Title Partition Suit No.25 of 1975 and mutation was also done vide Mutation Case No.113 R 27 of 1985-86.
5. However, a second partition suit being Partition Suit No.236 of 1987 was filed by brother of Respondent No.12 which was decreed in their favour being Partition Suit No.236 of 1987 by which they got Plot No.651 in their share.
6. It is submitted by learned counsel for the petitioners that Partition Suit No.236 of 1987 was subsequently withdrawn vide order dated 03.06.2002 in Title Appeal No.131 of 1994. This order attained finality by in the order passed in Civil Appeal No.5375 of 2005 by the Supreme Court.
7. In this view of the matter, the judgment and decree passed in Title Partition Suit No.25 of 1975 got restored which was decided in favour of Respondent Nos.11 and 12.
8. So far Respondent Nos.11 and 12 are concerned, they have already got compensation in terms of proviso 2 to Section 71 A of CNT Act, 1908 and, therefore, the basis on which the order was passed by the revisional court does not exist as Respondent Nos.5 to 8 has no subsisting claim over the property, in question.
9. Learned counsel for the Respondent Nos.11 and 12 do not contest the factual assertions made on behalf of the petitioners.
10. On repeated calls, no body appeared on behalf of Respondent Nos.5 to 8 although notices were served and they have already put their appearance through a counsel.
11. I find much force in the argument advanced on behalf of the petitioners that the very restoration case had been preferred not within a reasonable time of 30 years as held by the Apex Court in the case of *Situ Sahu and Ors. vs. State of Jharkhand & Ors. (2004) 8 SCC 340*.



12. Further, in the restoration case, the order of compensation was passed in favour of Respondent Nos.11 and 12 by both Courts i.e. SAR Officer and its appellate authority.
13. Under the circumstances, the impugned order of restoration in favour of Respondent no.5 to 8, is not sustainable as in the partition suit the said plot came under the share of Respondent No.11 &12 in whose favour the order of payment of compensation has been passed under Section 71-A of the CNT Act by the SAR officer and its appellate authority.

Impugned order is accordingly set aside.

Writ Petition is allowed. Pending I.A., if any, also stands disposed of.

(Gautam Kumar Choudhary, J.)

Sandeep/-