

IN THE HIGH COURT OF JHARKHAND AT RANCHI
[Civil Writ Jurisdiction]
W.P.(C) No. 1526 of 2009

Sheo Narain Jaiswal & Ors. Petitioners
Versus
The State of Jharkhand & Ors. Respondents

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CORAM :HON'BLE MR. JUSTICE KAILASH PRASAD DEO
[Through:- Video Conferencing]

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For the Petitioners : Mr. Arun Kr. Srivastava, Advocate.
: Mr. Badal Vishal, Advocate.
For the Respondents /State : Mr. P. C. Roy, S.C.(L&C)-I
For the Performa Respondent(s) :- Mr. Vivek Subir, Advocate

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11/ 06.04.2022. Heard, learned counsel for the parties.

Mr. Vivek Subir, learned counsel has submitted, that he has already appeared on behalf of the performa respondent(s), as such, interlocutory application bearing I.A. No.7464 of 2021 has been filed for substituting the legal heirs of petitioner no.1, Sheo Narain Jaiswal, may be allowed.

Mr. Arun Kr. Srivastava, learned counsel for the petitioners has submitted, that vakalatnama on behalf of petitioner no.1(a) Shashi Ranjan Jaiswal has already been brought on record, as such, this Court may consider the same.

Considering the same legal heirs of deceased- petitioner no.1, Sheo Narain Jaiswal be substituted in the cause title of the Writ Petition in the manner, as stated below :-

Shashi Ranjan Jaiswal, S/o Late Sheo Narain Jaiswal resident of Ranchi Distillery Compound, Lalpur, P.O. & P.S. Lalpur, District- Ranchi as petitioner no.1(a) and performa respondents, as under :-

Resp. No.7- Manoranjan Jaiswal, son of Late Sheo Narain Jaiswal ,
Resp. No.8- Tanuja Jaiswal, wife of Late Omiyo Ranjan Jaiswal,
Resp. No.9- Kushagra Vikram Jaiswal, son of Late Omiyo Ranjan Jaiswal,
Resp. No.10- Taruna Jaiswal, daughter of Late Omiyo Ranjan Jaiswal, as,
Resp. No.11- Shashi Ranjan Jaiswal, son of Late Sheo Narain Jaiswal,
Resp. No.12- Priyo Ranjan Jaiswal, son of Late Sheo Narain Jaiswal,
Resp. No.13- Krishna Ranjan Jaiswal, son of Late Sheo Narain Jaiswal,
Resp. No.14- Shushma Jaiswal, daughter of Late Sheo Narain Jaiswal,
Resp. No.15- Suman Jaiswal, daughter of Late Sheo Narain Jaiswal and,
Resp. No.16- Seema Gupta, daughter of Late Sheo Narain Jaiswal.

Respondent Nos.7 to 16, being performa respondents are resident of Ranchi Distillery Compound, Hazaribagh Road, Lalpur, P.O. & P.S.-Lalpur, District- Ranchi.

I.A. No.5697 of 2021 and I.A. No.7464 of 2021 stand disposed of.

W.P.(C) No. 1526 of 2009.

Mr. Arun Kr. Srivastava, learned counsel for the petitioners has submitted, that land of R. S. Plot No.81, under Khata No.25 of Mouza- Hehal, PS. Sukhdeo Nagar, District- Ranchi measuring an area of 1.78 acres was recorded as Kayami Raiyati land in the name of Mithu Oraon and Basauna Oraon, both sons of Late Janu Oraon.

Mr. Arun Kr. Srivastava, learned counsel for the petitioners has further submitted, that from perusal of Khatiyani, it will be evident that raiyati rent at Rupees 6 and 1 Anna was payable in respect of the said land.

Mr. Arun Kr. Srivastava, learned counsel for the petitioners has further submitted, that said Muthu Oraon died leaving behind a widow, Mostt. Giddi. Learned counsel has further submitted that said Basauna Oraon and Mostt. Giddi, widow of Late Mithu Oraon, sold and transferred the said 1.78 acres of lands as aforesaid in favour of one Shivam Oraon by virtue of a registered Sale Deed dated 26.09.1946 and at that time there was no restriction upon transfer of lands belonging to a member of the Scheduled Tribe to another member of the Scheduled Tribe. As such, the sale deed dated 26.09.1946 was not coming under the provisions of C.N.T. Act and thus, there was no violation of provisions of C.N.T. Act .

Mr. Arun Kr. Srivastava, learned counsel for the petitioners has further submitted, that it is strange that said piece of land has been claimed by the respondent-authorities as Khas Mahal land as it appears from the counter-affidavit has been filed on 19.02.2010 on behalf of respondent nos.1 to 5 duly sworn by Asif Ekram, S/o Md. Ekramuddin, the then Circle Officer, Town, Ranchi, claiming the same land to be Khas Mahal land, but document with respect to the same has not been brought on record.

Mr. Arun Kr. Srivastava, learned counsel for the petitioners has thus, submitted, that the land, in question, is recorded as Kayami Raiyati land and in support of that, the petitioner has brought the copy of the Khatiyani as Annexure-1 to the writ petition, photocopy of the sale deed dated 26.09.1946 as Annexure-2 to the writ petition, Type copy of deed of granting sanction and permitting conversion of raiyati lands to chhaparbandi land on 02.04.1948 as Annexure-3 to the writ petition, subsequent sale-deeds dated 08.05.1948 and 12.08.1961 as Annexures-3/A and 4 to the writ petition, Certified copy of the order passed by the Special Officer, Scheduled Area Regulation, Ranchi, dated 30.07.1999 in S.A.R. Case No.4/1994-95 / T.R No.60/1996-97 as Annexure-5 to the writ petition and Certified copy of order dated 25.08.2006 passed in its appeal vide Case No.150 (R)-15/1999-2000 as Annexure-6 to the Writ Petition and photocopy of S.A.R. Revision No.105/2006 as

Anneuxre-7 to the Writ Petition, even then the State is proceeding under the provisions of the C. N. T. Act, 1908 for the same piece of land.

Mr. Arun Kr. Srivastava, learned counsel for the petitioners has further submitted, that the instant Writ Petition has been filed in the year 2009, but because of the affidavit filed by the then Circle Officer, who is not authorized to represent the State of Jharkhand, such anomalies have cropped up in the Counter-affidavit, as such, it would be proper for this Court to direct the higher revenue authorities to file affidavit with regard to nature of the aforesaid land. If, the land was Kaiyami raiyati land, then no proceeding under Section 71-A of the C.N.T. Act, 1908, ought to have been initiated, which continued up to the Court of Revision and if the land was Khas Mahal land then it was incumbent upon the Land Revenue Department, Government of Jharkhand that such land should not be sold to any person. But, on the other hand, the State has taken stamp duty and registration charge on several sale deeds and even then the State is claiming the said land to be Khash Mahal land without having any document on record.

Mr. P. C. Roy, learned S.C.(L&C)-I for the State has submitted that though the counter-affidavit has been filed on 19.02.2010, but a detail counter-affidavit is required to be filed by Khash Mahal Officer, Ranchi after due approval from the Additional Chief Secretary, Revenue, Registration and Land Reforms, Government of Jharkhand, as such, some time may be granted.

Let the case be listed after three weeks.

It is made clear that if, the counter-affidavit is not filed within a period of three weeks, the Khas Mahal Officer, Ranchi shall be saddled with a cost of Rs.25,000/- for causing unnecessary delay in this case, which is of the year, 2009.

Let a copy of this order be communicated through FAX to the Deputy Commissioner, Ranchi and Khas Mahal Officer, Ranchi as well as Additional Chief Secretary, Revenue, Registration and Land Reforms, Government of Jharkhand at once.

Sandeep/

(Kailash Prasad Deo, J.)