

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 1296 of 2021

Ghasiram Mahato

... ... Petitioner

-Versus-

The State of Jharkhand & Ors.

... ... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. Abhishek Kumar Dubey, Advocate

For the Resp. Nos. 1 to 3 : Mr. Shubham Gautam, A.C. to G.P.-I

04/07.12.2021

I.A. No. 6841 of 2021

The present interlocutory application has been filed on behalf of the petitioner seeking stay of operation of the order as contained in letter dated 19.02.2021 passed by the respondent no. 3-the Sub-Divisional Officer, Chandil whereby a direction has been given to the Officer-in-Charge, Ichagarh Police Station for restraining the construction work made by the petitioner and his sons namely Bouri Mahato and Sudhir Mahato over the land appertaining to Khata No. 153, Plot No. 490, Mouza- Purihesa measuring an area of 57 decimals considering the application filed by Devrohin Mahato (the respondent no. 4).

Learned counsel for the petitioner while assailing the impugned order as contained in letter dated 19.02.2021 passed by the respondent no. 3, submits that the petitioner and others have preferred Original (Partition) Suit No. 19 of 2019 against the respondent no. 4 and others in the court of learned Civil Judge (Sr. Division)-I, Seraikella which is pending adjudication. Nonetheless, any executive authority has no jurisdiction to restrain the petitioner from making construction over the land in question merely on the ground of pendency of the aforesaid partition suit before the civil court. This Court, vide judgment dated 14.12.2020 passed in W.P.(C) No. 1649 of 2020 (Sandip Khanna @ Sundeep Khanna & Ors. Vs. State of Jharkhand & Ors.), has clearly held that mere filing of the suit does not lead to a presumption that an order of status quo has been granted unless the court concerned by a specific order, grants the same after taking into consideration the facts and applicable law. Moreover, an executive authority has no power or jurisdiction to grant status quo on mere filing of a civil suit. Further, the impugned order dated 19.02.2021 also does not suggest that the same has been passed by the respondent no. 3 under any lawful jurisdiction. Hence, the operation of the impugned order dated 19.02.2021 passed by the respondent no. 3 may be stayed.

Mr. Shubham Gautam, learned A.C. to G.P.-I appearing on behalf of the respondent nos. 1 to 3, refers to the counter affidavit filed by the

respondent nos. 2 and 3 and submits that there had been a case under Section 144 of the Cr.P.C. arising out of the dispute between the petitioner and the respondent no. 4 which was registered as Miscellaneous Case No. 70/2018 by the respondent no. 3 and the same was disposed of vide order dated 18.09.2018.

Even if the said contention of the respondent nos. 2 and 3 is considered, the impugned order dated 18.09.2018 passed by respondent no. 3 exercising power under Section 144 of Cr.P.C. has lost its force by now. Moreover, the impugned order dated 19.02.2021 does not suggest that the same has been passed by the respondent no. 3 exercising the power conferred under Section 144 of Cr.P.C. Hence, the operation of the order as contained in letter dated 19.02.2021 passed by the respondent no. 3 is hereby stayed till the next date fixed.

I.A. No. 6841 of 2021 stands disposed of.

W.P.(C) No. 1296 of 2021

Issue notice to the respondent no. 4 through ordinary process for which requisites etc. must be filed by 10.12.2021.

Put up this case under the heading "For Admission" on 19.01.2022.

(Rajesh Shankar, J.)