

**IN THE HIGH COURT OF JHARKHAND AT RANCHI****L.P.A No.205 of 2009**

Defence Estate Officer (Earlier designated as Military Estate Officer),
Bihar & Orrisa Circle, Danapur Cantonment, P.O. & P.S. Danapur,
District Patna, Bihar. **... Respondent/Appellant**

Versus

1. **(a.)**Shobha Karnad, widow of late Jayant Karnad

(b.) Sujay Jayant Karnad, s/o Late Jayant Karnad

Both resident of 07, River view Enclave, Telco Colony, PO& PS-
Telco, Jamshedpur-831004, East Singhbhum, Jharkhand.

...Petitioner/Respondent

2. The Union of India through Ministry of Defence, South Block, New Delhi.
3. General Officer, Command in 'C', Central Command, Lucknow Cantt., P.O & P.S-Lucknow Cantt. Lucknow, U.P

... Respondents/Proforma Respondents

4. The Director, Directorate of Enforcement **... Respondent**
5. Deep Shikha Dhanuka, aged about 60 years, widow of Late Raj Kumar Dhanuka, resident of Saket Nagar, Kanke Road, P.O.: Ranchi University, P.S.: Gonda, District- Ranchi.
6. Maya Kejriwal, aged about 53 years, wife of Sri Naresh Kumar Kejriwal, resident of Hazaribagh Road, Lalpur, P.O.& P.S.: Lalpur, District- Ranchi.
7. Gyanendra Kumar Singh, aged about 53 years, son of Late Shyam Bihari Singh, resident of Sukhdeo Nagar, Ratu Road, P.O.: Hehal, P.S.: Sukhdeo Nagar, District-Ranchi.
8. Raj Kishor Sahu, aged about 56 years, son of Late Mathura Sao, resident of New Nagra Toli, P.O.& P.S.: Lalpur, District- Ranchi
9. Sudhanshu Kumar Singh, aged about 44 years, son of Sri Sachidanand Prasad, resident of Balihar Lodge, Morhabadi, P.O.& P.S.: Bariyatu, District- Ranchi, permanent resident of Village- Meyar, P.O.& P.S.: Noorsarai, District- Nalanda (Bihar)



10. Sachidanand Prasad, aged about 77 years, son of Late Balgovind Prasad, resident of Balihar Lodge, Morhabadi, P.O.& P.S.: Bariyatu, District- Ranchi, permanent resident of Village Meyar, P.O.& P.S.: Noorsarai, District- Nalanda (Bihar)
11. Janki Devi, aged about 75 years, wife of Sri Sachidanand Prasad, resident of Balihar Lodge, Morhabadi, P.O.& P.S.: Bariyatu, District Ranchi, permanent resident of Village- Meyar, P.O.& P.S.: Noorsarai, District- Nalanda (Bihar)
12. Rajni Devi, aged about 46 years, wife of Raj Kishor Sahu, resident of New Nagra Toli, P.O.& P.S.: Lalpur, District- Ranchi
13. Sapna Bharti, aged about 36 years, wife of Sri Sudhanshu Kumar Singh, resident of Balihar Lodge, Morhabadi, P.O.& P.S.: Bariyatu, District- Ranchi, permanent resident of Village Meyar, P.O.& P.S.: Noorsarai, District- Nalanda (Bihar).
14. Prerna Soni, aged about 36 years, daughter of Late Mathura Sahu, resident of New Nagra Toli, P.O.& P.S.: Lalpur, District- Ranchi
15. Pramod Kumar Parashrampuriya son of late Neeranjan Lal resident of 3-C Rose Valley Apartment Rameshwaram Lane Bariyatu, P.O. & P.S. Bariyatu, District - Ranchi, Jharkhand.
16. Sanjay Kumar Parashrampuriya son of late Neeranjan Lal resident of 3-C Rose Valley Apartment Rameshwaram Lane Bariyatu,, P.O. & P.S. Bariyatu, District Ranchi, Jharkhand.
17. Hari Shankar Parashrampuriya son of late Neeranjan Lal resident of 3-C Rose Valley Apartment Rameshwaram Lane Bariyatu, P.O. & P.S. Bariyatu, District - Ranchi, Jharkhand.

... Respondents

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI**

For the Appellant	:Mr. Prashant Pallav, DSGI :Mr. Kumar Vaibhav, C.G.C. :Mr. Parth Jalan, AC to DSGI
For the Resp. No.1	:Mr. Himanshu Kumar Mehta, Advocate :Mr. Rishav Raj, Advocate :Ms. Manjusri Patra, Advocate
For the Resp. No.4	:Mr. Amit Kumar Das, Advocate



For the Resp. Nos.5 to 17 :Mr. Sidharth Jain, Advocate
:Mr. Apurb Lal, Advocate
:Mr. Vidhan Kumar Singh, Advocate

C.A.V on 11/12/2025

Pronounced on 15/01/2026

Per Sujit Narayan Prasad, J.

1. The instant appeal under Clause 10 of the Letters Patent is directed against the judgment/order dated 18.03.2009 passed in W.P(C) No.1903 of 2007 whereby and whereunder the Learned Single Judge was pleased to allow the writ petition and held that the Respondent/Writ Petitioner is entitled to the release of the property in his favour, directing the Appellant/Respondents to hand over the land in question to the Respondent/Writ Petitioner without any further delay.

Factual Matrix

2. The brief facts of the case as per the pleadings made in the writ petition as has been asserted in the memo of appeal, as also various affidavits filed and the counter-affidavit filed on behalf of the appellant needs to be referred herein which reads as under:
 - (i) A piece of land is in physical possession of the appellant measuring 4.46 Acres bearing M.S. Plot No. 557 situated at Morabadi, Booti Road, Ranchi.
 - (ii) The said land was owned and possessed by one B.M.Lakshman Rao, maternal grand-father of the original writ petitioner occupied by the authorities of the Army in the year 1943 but the occupation of the land was admitted by the Army only with effect from 1.4.1946.



- (iii) Since the property was occupied by the personnel of the Army, the said B.M.Lakshman Rao went on agitating the matter. Ultimately Army personnel agreed in the year 1957 to grant recurring compensation @ Rs.446/- per annum from 1.4.1946 to 30.3.1960. In course of time, when the value of the land increased considerably, the said B.M.Lakshman Rao took up the matter for enhancing recurring compensation to the extent of Rs.3600/- per annum which was enhanced to Rs.3600/- with effect from 1.4.1963.
- (iv) B.M.Lakshman Rao died in the year 1966 and he had executed a will in favour of his son B.M.Mukund Rao, who brought a case of Probate, bearing case no.67 of 1969 in the court of Judicial Commissioner, Chotanagpur,Ranchi, who granted probate in favour of saidB.M.Mukund Rao. Thereupon compensation which was due from 1963 to September, 1970 was paid.However, in the year 1974, the said B.M.Mukund Rao filed an application making request to release the property in his favour.
- (v) Further,when nothing was done in the matter, an application was filed by him for enhancing the compensation to the extent of Rs.12,000/- per annum and also made request to release the land. Thereafter compensation was enhanced @ Rs.5000/- per annum with effect from1.2.1978 but no decision was taken by the authority regarding release of the property in favour of him.
- (vi) The said B.M.Mukund Rao on his superannuation started living at Pune and when the wife of B.M.Mukund Rao pre-deceased



her husband issueless, B.M.Mukund Rao started living at Jamshedpur with his sister Malati Rao Karnad, who also died on 14.1.1991.

- (vii) Thereafter, said B.M.Mukund Rao started living with the petitioners at Jamshedpur and at some times at Pune, and ultimately died on 4.9.1998 without leaving any will.
- (viii) Under this situation, original writ petitioner being sole successor to the estate of the deceased, asked for payment of arrears of compensation which had fallen due to be paid from the year 1998 and also made prayer before the authorities for release of the property but nobody made any response and, therefore, writ petition being W.P.(C) No. 1903 of 2007 has been filed with a prayer to direct the respondent to pay arrears of recurring compensation due since 1998 @ Rs.5000/- per annum and also for release of the property in terms of section 6(1-A) of the Requisitioning and Acquisition of Immovable Property Act, 1952.
- (ix) During the pendency of the said writ petition, the writ petitioner filed an IA No. 1817 of 2008, praying for the release of rent.
- (x) The learned writ Court vide order dated August 4, 2008 directed that rent be paid to the writ-Petitioner.
- (xi) Subsequent thereto, the Appellant filed an interlocutory application, being IA No. 3014 of 2008; prayed that the order dated August 4, 2008 be modified to the extent that the Petitioner be directed to produce a succession certificate or a declaration from a Learned Court of Competent Jurisdiction,



proving that the Petitioner was indeed the sole surviving heir of B.M.Munkund Rao but the said application was, however, dismissed vide order dated October 22, 2008.

(xii) Consequently, in compliance of the Court's order the payment was made to Jayant Karnad, the original writ petitioner on 19.11.2008.

(xiii) Thereafter, the learned writ Court has passed the order dated 18.03.2009 allowing the writ petition whereby the learned Single Judge has held that since land in question was requisitioned property, therefore it should be released in favour of the original writ petitioner without any delay preferably within a period of two months from the date of receipt/production of copy of the order.

3. In order to challenge the aforesaid order dated 18.03.2009 passed in W.P.(C) No. 1903 of 2007 the instant appeal has been preferred by the appellant.
4. It is evident from the factual aspect as narrated in the writ petition that a piece of land is in possession of the appellant measuring 4.46 Acres bearing M.S. Plot No. 557 situated at Morabadi, Booti Road, Ranchi and the said land was owned and possessed by one B.M. Lakshman Rao, occupied by the authorities of the Army in the year 1943 and the occupation of the land was admitted by the Army with effect from 1.4.1946.
5. As the property was occupied by the personnel of the Army, the said B.M. Lakshman Rao had agitated the matter and ultimately in the year 1957, Army personnel agreed to grant recurring compensation @



Rs.446/- per annum from 1.4.1946 to 30.3.1960. In course of time, the said B.M. Lakshman Rao took up the matter for enhancing recurring compensation to the extent of Rs.3600/- per annum which was enhanced to Rs.3600/- with effect from 1.4.1963. B.M. Lakshman Rao died in the year 1966 and he had executed a will in favour of his son B.M. Mukund Rao, who brought a case of Probate in the court of Judicial Commissioner, Chotanagpur, Ranchi, who decided probate in favour of said B.M. Mukund Rao. Thereupon compensation which was due from 1963 to September, 1970 was paid on 3.9.1970.

6. Thereafter in the year 1974, B.M. Mukund Rao filed an application making request to release the property in his favour as also an application was filed by him for enhancing the compensation to the extent of Rs.12,000/- per annum. Thereafter compensation was enhanced @ Rs.5000/- per annum with effect from 1.2.1978 but no decision was taken by the authority regarding release of the property in favour of him.
7. The said B.M. Mukund Rao died on 4.9.1998 without leaving any will. After the demise of the said B.M. Mukund, original writ petitioner asked for payment of arrears of compensation which had fallen due to be paid from the year 1998 and also made prayer before the authorities for release of the property.
8. Thereafter for redressal of his grievances the original writ petitioner had filed writ petition being W.P.(C) No. 1903 of 2007 with a prayer to direct the respondent to pay arrears of recurring compensation due since 1998 @ Rs.5000/- per annum and also for release of the property



in terms of section 6(1-A) of the Requisitioning and Acquisition of Immovable Property Act, 1952.

9. During the pendency of the said writ petition, the original writ petitioner filed an IA No. 1817 of 2008, praying for the release of rent. The learned writ Court vide order dated August 4, 2008 directed that rent be paid to the writ-Petitioner.
10. Thereafter, the learned writ Court has passed the order dated 18.03.2009 allowing the writ petitioner whereby the learned Single Judge has held that the property in question should be released in favour of the original writ petitioner.
11. Against the said order dated 18.03.2009 the present appeal has been preferred.

Submission on behalf of the appellant-respondent:

12. Mr. Prashant Pallav, the learned DSGI assisted by Mr. Kumar Viabhav, the learned C.G. appearing for the appellant has taken the following grounds to assail the impugned judgment:

(i) The learned Single Judge has not appreciated the fact that the title of the writ petitioner is disputed and, as such, the very locus of the writ petitioner is in cloud.

(ii) It has been contended that the writ petitioner has claimed to be the rightful owner of the property by way of right of inheritance but no such document has been made available.

(iii) It has been contended that the learned Single Judge has also not appreciated the fact that the case is that the land has been occupied on the basis of the rental to be paid in favour of the erstwhile title holder, but the claim which has been made by the



present respondent-writ petitioner without any supporting document showing the title of the land in question or any document said to be giving locus to him but even then the impugned judgment has been passed.

(iv) The ground of delay and laches has also been taken, since, the writ petition has been filed after lapse of 8 years, i.e. in the year 2007 without giving any explanation showing the plausible cause of delay in filing the writ petition, but even the aforesaid aspect of the matter has not been taken into consideration.

(v) It has been contended that the learned Single Judge has also not appreciated the fact that in such a situation of serious disputed question of fact including the title, the writpetition should not have been entertained, but the same has been entertained and the title over the land in question has also been declared in favour of the writ petitioner even after such a dispute having been raised on behalf of the appellant herein.

13. The learned counsel for the appellant-writ petitioner, based upon the aforesaid grounds, has submitted that the impugned order dated 18.03.2009 passed by the learned Single Judge, therefore, suffers from an error and, as such, it is not sustainable in the eyes of law.

Submission on behalf of the Respondent-Enforcement Directorate:

14. Per contra, Mr. Amit Kumar Das, the learned counsel appearing for the respondent-Enforcement Directorate has raised the following grounds as the E.D has been impleaded as a party to the present proceeding in view of subsequent development of conducting investigation under the provision of PML Act, 2002:



- (i) It is submitted that subsequent to the disposal of the Writ Petition, significant developments have taken place, inasmuch as an F.I.R. has been instituted vide Bariatu P.S. Case No. 141 of 2022 for offences punishable under Sections 420, 467 and 471 of the Indian Penal Code, 1860, for submission of forged and fictitious documents for the purpose of obtaining holding numbers in connection with the land in question.
- (ii) It is further submitted that since the offences under Sections 420, 467 and 471 of the Indian Penal Code are classified as "scheduled offences" under Part-A of the Schedule to the Prevention of Money Laundering Act, 2002, the Directorate of Enforcement assumed jurisdiction and initiated inquiry in the matter. Consequently, an ECIR bearing No. RNZO/18/2022 dated 21.10.2022 was registered, and investigation under the provisions of the PMLA, 2002 was commenced.
- (iii) It is further submitted that upon conclusion of the investigation, the Directorate of Enforcement has categorically found that all entries recorded in the Revenue Records are forged and fabricated. Pursuant thereto, a Prosecution Complaint came to be filed on 12.06.2023, wherein the specific findings with respect to the falsification of entries in the revenue records have been duly recorded. In order to substantiate this limb of the argument the learned counsel has relied upon the relevant parts are contained in Paragraphs 9.7 (9.7.1 to 9.7.5) and (9.9.1 to 9.9.3) of the said Prosecution Complaint. For ready reference the said paragraphs are being quoted herein which reads as under:

**9.7 Case of acquisition of the property by Jayant Karnad-**

9.7.1 Investigation conducted into the fraudulent acquisition of the above-stated property situated at MS 557, Morabadi Mouza, ward no. 21/19, having an area of 455.00 decimals at Ranchi reveals that the land was given to army on rent before independence in the year 1946 and since then, it has been in possession of the defence/army. As per the documents provided by the defence, it reveals that the defence had been paying rent for this property to Jayant Karnad who claimed himself a successor of B. M Laxman Rao, the purported owner of the property at Morabadi, Ranchi. B.M Lakshman Rao died in the year 1946 and as per records his son B.M. Mukund Rao passed away in the year 1998. In the year 2019, Jayant Karnad further sold this property to the following 14 persons by way of 16 deeds at a very negligible amount (RUD No. 115 to 130). –

Though the registration of the property was done by Jayant Karnad to the above said purchasers, the application for mutation of the above stated 14 purchasers was rejected by the Circle Officer, Bargain since the property in their records was in possession of the defence.

9.7.2. For the purpose of investigation, summons was issued to Jayant Karnad and his statement was recorded under section 50 of PMLA, 2002 on 10.05.2023 (RUD No. 11) and 11.05.2023 (RUD No. 12). It reveals that one advocate arranged papers for Jayant Karnad who did not have any papers or proof regarding his claim in property or any succession certificate of B.M Mukund Rao. The advocate arranged a copy of the probate dated 13.02.67 for Jayant Karnad on the basis of which he initially managed to get rent from the defence and later in the year 2009 succeeded to get the land released in favour of Jayant Karnad from the defence, In his statement given under section 50 of PMLA, 2002, Jayant Karnad stated that he had no documents/deeds/khatian in respect of the ownership/claim over the property M.S Plot no. 557, Mauja Morabadi, Ranchi. Further, he did not have any holding number/maalguzari/lagaan receipt, paid in respect of the property which he claimed from the defence and further sold to 13 purchasers. To a specific question regarding the legal heir certificate or any such document which could prove the lineage or his claim/proof for succession in support of his rightful claim over the property or successor of late B.M Mukund Rao, he could not furnish any rent agreement or MoU executed in between army and



his ancestors (BM Mukund Rao) regarding the rent of property bearing no. 557 at MaujaMorabadi admeasuring 4.55 acres. He stated that his mother late Malti Karnad was the only daughter of his maternal grandfather late B.M Mukund Rao. However, he could not provide any document in support of his claim that late MaltiKarnad was the daughter of late B.M Mukund Rao. His statement dated 10.05.2023 reveals that the first time he received the rent from army, In the year 2008 amounting to Rs. 417 in his HUF Account 450110110002549 held in Bank of India. After this, he also received Rs. 50,640/-as arrear of due rent from to which was cleared in account number 4501101000299692204. He has been receiving rent from Defence Estate 1998 Office, till 28th December, 2021 In HUF account bearing no 450110110002549 held in Bank of India. In the year 2019, the land was sold to 13 different persons for a sum of Rs. 2.55 crores which was received in his Bank of India account bearing no. 450110110002549.

9.7.3. Investigation also reveals that the name of B.M Mukund Rao s/o B.M Lakshman Rao is entered as raiyat of the M.S Plot no. 557, MaujaMorabadi on page no. 249 of register II of M.S Plot no. 557 of Mauja Morabadi. The mutation case number of the above property in name of B.M Mukund Rao is 1298R27/60-61 which is shown as filed and accepted (RUD No. 13). The concerned register/record was available with circle office Baragai at Ranchi.

9.7.4 Investigation reveals that in the above said register II, the name of theAnchal/Circle is mentioned as Shahar. Enquiries were conducted with the Circle Officer, Shahar Anchal, Ranchi and vide letter 443(ii) dated 23.05.2023, the Circle Officer has informed that the Shahar Anchal was incorporated by the government notification no. 6649 dated 25.10.1970 and the circle became operational on 14.04.1971 (RUD No. 109). The Circle Officer has further clarified that the above stated mutation case no. 1298R27/60-61 does not pertain to Shahar anchal, Ranchi. Thus, it is clear that the name of B.M Mukund Rao and B.M Laxman Rao appearing on page no. 249 of register II is also forged and backdated. Further, vide letter no. 160 (il) dated 29.05.2023, the Officer In-charge District Record Room has forwarded the letter dated 25.05.2023 of the Circle officer, Sahar Anchal wherein he has informed that the Sahar Anchal came into existence on 14.04.1971 and hence the mutation case no. 1298R27/60-61 does not pertain to Shahar Anchal (RUD No. 111). Vide letter no. 154(li) dated 22.05.2023 the officer In-charge records District



Record Room has provided the true copy of the Khatiyon of Property MS plot no. 557 ward no. 7, in name of Pramod Nath Das Gupta (RUD No. 110). Vide letter dated 1367(il) dated 31.05.2023, Shri Diwakar Prasad Chandrika Prasad Dwivedi Circle Officer Kanke has provided information that the mutation case no. 1298R27/60-61 is not entered in the index of year 1960-61 (RUD No. 112). The tampering in the above-said original registers has also been as opined by the forensic expert of DFS, Gandhinagar, Gujarat. From the above, it is evident that Jayant Karnad is also not the rightful claimant of the property and it is another case of forgery, where back dated entries have been made in the Registers of Circle Office Bargai in name of B.M. Laxman Rao and as such, the mutation in name of B.M. Laxman Rao and present ownership of Jayant Karnad is also frivolous.

9.7.5 During investigation, survey was conducted on 09.02.2023 at the Circle office, Bargal, Ranchi under section 16 of PMLA, 2002 and the original register II, containing the above entry was inspected and its custody was taken from the Circle Office along with other documents after the permission of Hon'ble PMLA Court, Ranchi under section 91 of Cr.PC. After obtaining due permission, the said original register was sent for examination by an expert to Directorate of Forensic Science, Handwriting and Forensic Bureau, Gandhinagar. The Directorate of Forensic Science has observed that

The page of register II (PAGE No 249), there is entry in the name of BaingerMunjeshwar Mukund Rao, S/o BaingerMunjeshwar Laxman Rao, Raiyat of M.S Plot No 556. The colour and tint of Ink of the entries on page is different from the colour and tint of the ink of the entries on rest of the pages. (RUD No. 114).

9.9. Surveys conducted in this case on 09.02.2023 at the Circle office. Bargain. Ranchi and on 15.02.2023 at the office of Registrar of Assurances, Kolkata, its outcome and the forensic report on the forged documents-

9.9.1 During Investigation, survey was conducted on 09.02.2023 (RUD No. 09.02.2023) at the Circle office, Bargai, Ranchi under section 16 of PMLA, 2002 and the original register II, containing the above entry was inspected and its custody was taken from the Circle Office along with other documents after the permission of Hon'ble PMLA Court, Ranchi under section 91 of Cr.PC. After obtaining due permission, the said original register was sent for



examination by an expert to the Directorate of Forensic Science, Handwriting and Photographic Bureau, Gandhinagar in HPB Case No-122/2023 dated 18.04.2023. The Directorate of Forensic Science has opined that-

The page of register II (PAGE No 249), there is entry in the name of BaingerMunjeshwar Mukund Rao, S/o BaingerMunieshwar Laxman Rao, Raivat of M.S Plot No 556. The colour and tint of Ink of the entries on page is different from the colour and tint of the ink of the entries on rest of the pages. (RUD No.114)

9.9.2 Surveys were also conducted on 15.02.2023 at the office of the Registrar of assurances (Records), Kolkata for the detection of the forgery and the original volumes pertaining the purported deed no 4369 of the year 1932 which was submitted by Pradip Bagchi and based on which the company Jagatbandhu Tea Estate Pvt. Ltd. purchased the above-said land were called for and inspected

Survey led to the incriminating observations which was noted by the officials of Directorate of Enforcement. Ranchi Zonal Office, Registrar of Assurances. Kolkata, ADSR (Records) the record keeper of the original registers which is reproduced as follows:-

a. Deed no. 4369 for the year 1932 has been executed and entered on 10.11 1932 in the English language from pages 298 to 300. The signature of the sub-registrar had been made on page no 299 on November 30, 1932. However, earlier deed no 4367 from 1932 had been entered in Bengali on pages 295-297. The deed bearing no. 4367 was entered on 23.12.1932 and the signature of the then sub-registrar was entered on 30.12.1932. The date of December 30, 1932, was clearly visible in the aforementioned register deed. Thus, on verifying the dates, it was seen that deed no. 4369 of 1932 had been entered on 30.11.1932, which was prior to the entry of deed no. 4367 of 1932, which was executed on 23.12.1932. It was admitted by all that the latter deed, bearing No. 4369 of 1932, from pages 298 to 300, cannot be executed on a prior date, Le., before the deed No. 4367 of 1932 (from pages 295 to 297). The deed no, 4273 of 1932 was also verified it was observed that and it was registered on December 14, 1932, and was entered by the then sub-registrar on December 17, 1932



b. It was also seen that the style in which the signature of the sub-registrar had been entered on deed no. 4367 of 1932, dated December 23, 1932, was different from that on deed no. 4369 of 1932, dated November 30, 1932.

c. The purported deed executed in the name of Prafulla Kumar Bagchi bore the name of one identifier, Kali Ram Singh, s/o Pachu Singh, whose address was mentioned as Tangra, West Bengal

d. The above-mentioned signature was made on December 30, 1932, It is pertinent to mention that West Bengal came into existence after 1947, and the purported West Bengal did not exist during 1932. In addition, not only West Bengal but pin code was also found to be mentioned in the records pertaining to before independence. It is pertinent to mention that pin code was introduced in India in year 1972.

9.9.3 As stated above, the original registers and documents were produced under section 91 of Cr.P.C before the Hon'ble PMLA Court, Ranchi and the sald original registers and volumes were sent for forensic examination by an expert to Directorate of Forensic Science, Handwriting and Forensic Bureau, Gandhinagar. The Directorate of Forensic Science has confirmed the forgery and tampering of records as stated above in HPB Case No-112/2023 dated 18.04.2023 (RUD No. 114). The Directorate of Forensic Science has opined that-

The examination of Volume-108 marked as 3D, records of the Registrar of Assurances, Kolkata. The Sale Deed no. 4369 of year 1932, related to property MS plot. 557, P S. no192 at Morahadi, Ranchi, it is observed that

1. The person who wrote entries on pages marked D295 to 0297 did not write entries on disputed pages marked D298 to 0.300

ii. It is observed that the disputed entries of the deed no 4369, the entries did not execute on date 30-12-32 but written after the date 21/3/33.

iii. The colour and tint of ink of the entries on page marked D298 to D300 is different from the colour and tint of ink of the entries on page marked D295 to D297 A

iv. It is observed that the inserted fresh red coloured thread tagged with old white coloured thread on page marked D280 and on page marked D296.

v. It is observed that there are marks of physical eraser above the certificate given by an authorized signatory on page marked



D297 and erased writings under UV light are deciphered as "This Volume closed here"

vi. It is observed that on the first page, the certificate was given on page marked 3D1/1 by an authorized signatory on dated 21/3/33, and later on the first page was pasted on the backside of front cover.

vii. The signatures of an authorized signatory is observed on page number 1 to 297 but not observed on the pages marked D298 to D300.

- (iv) By referring the aforesaid paragraph, the learned counsel for the ED has submitted that it is apparent that the original Writ Petitioner is asserting his Sub claim solely on the basis of Revenue Records, which have now been determined to be forged and fabricated. Furthermore, it is respectfully submitted that the Prevention of Money Laundering Act, 2002 constitutes a complete code in itself and has an overriding effect over other laws by virtue of Section 71 of the said Act.
- (v) It has further been contended that since in view of the ECIR the part of the landed property in question has been attached in purview of money laundering offence and the adjudicating authority has also confirmed the attachment against which the writ petitioner/subsequent purchaser/intervenor has made application for release of the attached property in question, but the said revision application was withdrawn.
- (vi) It has been contended by referring the provision of section 8, 67 and 71 of the PML Act, 2002 that once the landed property in question has been attached and order of attachment has been confirmed, then in view of the provision of section 71 of the PML Act, 2002 the aggrieved party is to wait for final decision of the trial.



(vii) It has further been submitted that since the land has been found to be procured by the writ petitioner on the basis of the forged documents as would be evident from the ECIR referred and quoted hereinabove, and, as such, whatever order has been passed by the learned Single Judge holding the writ petitioner entitled for compensation and even the title over the land in question is not worth to be considered by passing order in favour of the writ petitioner and only order is to be passed is the reversal of the order passed by the learned writ Court.

15. The learned counsel, based upon the aforesaid submission, as has been taken in the application on behalf of the ED has submitted that at the moment no relief is to be granted in favour of the writ petitioner and in view of the aforesaid subsequent development the order passed by the learned Single Judge cannot be acted upon.

Submission on behalf of the writ petitioner/ Respondent no. 1:

16. Mr. Himanshu Kumar Mehta, the learned counsel appearing for the respondent-original writ petitioner while defending the impugned judgment has taken the following grounds:

(i) The learned Single Judge has appreciated the entire aspect of the matter and has come to the conclusion based upon the statement made by the appellant in the counter-affidavit to the effect that the land has been occupied on the basis of the requisition and the land, since, is not being in use and, as such, the learned Single Judge taking the aforesaid facts into consideration and applying the provision of section 6 (1-A) (a) of the Requisitioning and Acquisition Act, 1952 is



directed to restore the land in favour of the original writ petitioner, which cannot be said to suffer from an error.

(ii) It has been contended that since the will was executed in favour of late B.M. Mukund Rao which has also been probated and the original writ petitioner, namely, Jayant Karnad, since, has claimed the right of inheritance over the immovable property, the land in question, for which no succession certificate is required that has already been taken note by the learned Single Judge while passing the order dated 22.10.2008 in I.A No. 3014 of 2008 and the said order has not been challenged by the respondent (appellant herein).

(iii) It has been submitted that for the purpose of right of inheritance over the immovable property no succession certificate is required since there is no mandate to that effect under the Indian Succession Act, 1956.

(iv) It has further been contended that it will be evident from the counter affidavit that even the Union of India has accepted the fact of requisitioning of the land and, as such, it is incorrect submission of the appellant that the land in question has not been requisitioned, rather it is hired on the basis of rental/compensation.

(v) The learned counsel, however, has not disputed the fact about the institution of ECIR by the Directorate of Enforcement over the land in question.

Submission on behalf of the newly impleaded respondent, the subsequent purchaser of the land

17. Mr. Apurb Lal, the learned counsel appeared on behalf of the newly impleaded respondent, the subsequent purchaser of the land in question



has submitted that he has adopted the argument advanced by Mr. Himanshu Kumar Mehta, on behalf of the original writ petitioner. He has submitted that adjudication proceeding was questioned by him but it was subsequently withdrawn.

Response on behalf of the appellant-Union of India:

18. Mr. Prashant Pallav, the learned ASGI appeared on behalf of the appellant in response has submitted that even accepting that the succession certificate is not required in the immovable property but in a case of serious dispute over the title of the party concerned, the original writ petitioner herein, the requirement as per the law is to get a declaration by filing a suit before the competent Court of civil jurisdiction and remedy does not lie by filing an application under Article 226 of the Constitution of India.

Analysis:

19. We have heard the learned counsel appearing for the parties and gone through the statements made in various affidavits filed before the learned writ Court and in the present memo of appeal as also the findings recorded by the learned Single Judge in the impugned judgment dated 18.03.2009.
20. The issues which require consideration in the present case are:
 - i. *Whether the fact which has been pleaded in various affidavits on behalf of the parties and as has been argued, does it reflect the disputed question of the title over the land in question, if yes, whether the writ petition will be held to be maintainable?*
 - ii. *Whether the judgment passed by the learned Single Judge can be said to be just and proper if the issue which has been raised on behalf of the appellant that the land having been occupied on the rental basis, based upon the document, having not been rebutted by the writ petitioner can be said to be proper adjudication without*



answering the issue of occupation of the land instead thereof only going on the issue of the requisition of the land.

iii. Whether the judgment passed by the learned Single Judge can be said to be proper if the entire aspect of the matter has not been taken into consideration by giving specific findings?

21. Since all the issues are interlinked and, as such, they are being taken up together.
22. This Court deem it fit and proper that before consideration of the aforesaid issue, the admitted factis once again to be referred herein at the risk of repetition:
 - (i) The original writ petitioner Jayant Karnad (since dead), had filed the writ petition commanding the Respondent to make payment of rent since 1998 at the enhanced rate of 5,000/- (INR Five Thousand Only) along with interest. The Petitioner further prayed for the release of the land under Section 6(1-A) of the Requisitioning and Acquisition of Immovable Property Act, 1952.
 - (ii) A piece of land is in physical possession of the appellant measuring 4.46 Acres bearing M.S. Plot No. 557 situated at Morabadi, Booti Road, Ranchi.
 - (iii) The said land was owned and possessed by one B.M.Lakshman Rao, was occupied by the authorities of the Army in the year 1943 and the occupation of the land was admitted by the Army with effect from 1.4.1946.
 - (iv) Recurring compensation @ Rs.446/- per annum from 1.4.1946 to 30.3.1960 was granted and when the value of the land increased considerably, the compensation was enhanced to Rs.3600/- with effect from 1.4.1963.



- (v) B.M.Lakshman Rao died in the year 1966 and he had executed a will in favour of his son B.M.Mukund Rao, who brought a case of Probate, bearing case no.67 of 1969 in the court of Judicial Commissioner, Chotanagpur,Ranchi, who granted probate vide order dated March 30, 1973 in favour of said B.M.Mukund Rao. Thereupon compensation which was due from 1963 to September, 1970 was paid on 3.9.1970.
- (vi) In the year 1974, the said B.M. Mukund Rao filed an application making request to release the property in his favour.
- (vii) On the request of B.M. Mukund Rao the recurring Compensation was further enhanced @ Rs.5000/- per annum with effect from 1.2.1978 and the same was accepted by the B.M. Mukund Rao vide his letter dated 01.07.1978.
- (viii) On 04.09.1998 B.M. Mukund Rao passed away without any codicil or will.
- (ix) After the demise of BM Munkund Rao, the original writ Petitioner had claimed to be the sole surviving legal heir of BM Munkund Rao being son of sister of late BMMunkund Rao.
- (x) Thereafter, Original writ petitioner asked for payment of arrears of compensation which had fallen due to be paid from the year 1998 and also made prayer before the authorities for release of the property.
- (xi) During pendency of writ petition vide order dated 4th August 2008 respondents of the writ petition were directed to pay the rental due to the original writ petitioner.



- (xii)** Consequently, in compliance of the aforesaid Court's order the payment was made to Jayant Karnad, the original writ petitioner on 19.11.2008.
- (xiii)** Thereafter, the learned writ Court has passed the order dated 18.03.2009 and has held that since land in question was requisitioned property, therefore it should be released in favour of the original writ petitioner.
- (xiv)** Subsequent to the disposal of the Writ Petition, significant developments have taken place, inasmuch as an F.I.R. has been instituted vide Bariatu P.S. Case No. 141 of 2022 for offences punishable under Sections 420, 467 and 471 of the Indian Penal Code, 1860, for submission of forged and fictitious documents for the purpose of obtaining holding number in relation to the land in question.
- (xv)** Since the alleged offences under the fold of scheduled offence under PML Act 2002, the Directorate of Enforcement assumed jurisdiction and initiated inquiry in the matter. Consequently, an ECIR bearing No. RNZO/18/2022 dated 21.10.2022 was registered, and investigation under the provisions of the PMLA, 2002 was commenced.
- (xvi)** In the investigation it has come on record that in the year 2019, Jayant Karnad original writ petitioner further sold this property to the different persons by way of deeds at a very negligible amount.
- (xvii)** Though the registration of the property was done by the original writ petitioner Jayant Karnad to the purchasers, the application for mutation of the said 14 purchasers was rejected by the Circle



Officer, Bargain since the property in their records was in possession of the defence.

(xviii) Further in his statement under Section 50 of PML Act 2002 the original writ petitioner to a specific question regarding the legal heir certificate or any such document which could prove the lineage or his claim/proof for succession in support of his rightful claim over the property or successor of late B.M Mukund Rao, he could not furnish any rent agreement or MoU executed in between army and his ancestors (BM Mukund Rao) regarding the rent of property bearing no. 557 at MaujaMorabadi admeasuring 4.55 acres.

(xix) It has come in the investigation the original writ petitioner has been receiving rent from Defence Estate 1998 Office, till 28th December, 2021 in HUF account bearing no 450110110002549 held in Bank of India.

(xx) Further during investigation in said ECIR case it has come on record that original Writ Petitioner is asserting his Sub claim solely on the basis of Revenue Records, which have now been determined to be forged and fabricated.

(xxi) In exercise of power under Section 5 of the Prevention of Money Laundering Act, 2002, property was provisionally attached and being aggrieved by the said order of attachment, the original Writ Petitioners preferred an appeal before the Appellate Tribunal being Appeal No. MP-PMLA-1667/RNC/2024 Exemp. FPA-PMLA-763/RNC/2024 however, the said appeal was ultimately



withdrawn by the Petitioner vide order dated 04.09.2025 and as such the order of attachment has become "FINAL".

23. Now adverting to the contention raised by the learned counsel for the parties. The question which has been raised on behalf of the appellant is regarding the dispute over the title of the land in question. This Court is proceeding to assess as to whether there was any dispute over the title in question or not.
24. It is admitted fact as per the fact said to be undisputed having been referred hereinabove that the original writ petitioner, namely, Jayant Karnad was not in the picture when the land was said to be occupied by the appellant way back in the year 1943.
25. The land was in possession in the year 1943 by B.M. Lakshman Rao and after his death by virtue of the will executed in favour of Bal Mukund Rao and the title has been claimed by Bal Mukund Rao who has made an application for enhancement in the amount of compensation, meaning thereby, the factum of the land said to be occupied by the Appellant has been admitted.
26. After death of Bal Mukund Rao, the original writ petitioner has come into picture claiming his right over the property in question. As per the pleading of the writ petition particularly para 14 request for enhancement of the amount of compensation was made by the B. Mukund Rao and on his request recurring compensation was enhanced at the rate of Rs. 5000/ annum with effect from 01.02.1978 and same has been accepted by the B.M. Mukund Rao vide his letter dated 01.07.1978, for ready reference the said letter is being quoted herein which reads as under:



B.M. MUKUND RAO

“SINDUR”

**62 A, MAYUR
CORP.COLONY**

P.O. KOTHRUD,

PUNE 411029

Dt. 1.7.1978.

**TO,
SHRI AJBIR SINGH
DESK OFFICER
GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
NEW DELHI 110011**

**SUBJECT:- ENCROACHMENT OF PRIVATE LAND BY ARMY FROM 1.1.46 TILL
DATE SERIOUS HARDSHIP TO OWNER**

Ref:- Your letter No. 12012/1/76/D(Lands) Dt.23rd May 1978

Sir,

I thank you very much for your kind letter of the 23rd May informing of the enhancement of rent of my Land at Ranchi from Rd. 3,600/- to Rs.5,000/- P.A. with effect from 01.02.1978.

You state that necessary instructions to this effect have already been issued to the local military authorities, and that I should contact the Military estates Officer at Dinapore for payment of enhanced rentals w.e.f. 1.2.1978.

Accordingly, I sent the Military Estates Officer the necessary pre-receipted Rental Bill no. 8.M.M. R. 57 of 1.6.1978 for Rs.467/- (Rupees four hundred, sixty-seven only being the difference due to enhancement of rent for the Four months of February, March, April and May with a letter under regd, cover which has been duly acknowledged.

But I am surprised that I have received only Rs. 300/- as rent for May 1978 and the difference due to enhanced rent w.e.f. 1.2.78 has not been sent yet.

Will you kindly, therefore, request the military estates Officer, Dinapore to kindly send at once the due difference and make all future payments at the enhanced rent of Rs. 5,000/- per annum.

A Copy of this advice may kindly be forwarded to me for information.

Thanking you,

Yours sincerely

B.M.Mukund Rao



27. It is evident that the original writ petitioner has also admitted the factum of land having been occupied by the appellant and for that reason the request was made to enhance the amount of compensation.
28. The appellant has questioned the locus and title of the original writ petitioner, namely, Jayant Karnad who had come to this Court by filing a writ petition being W.P(C) No.1903 of 2007 claiming the amount of compensation.
29. The case was contested by filing counter affidavit on behalf of the appellant-Defence Estate Officer (Earlier designated as Military Estate Officer), by taking the following grounds in the counter affidavit:
- (i) *That the land measuring 4.46 acres in M. S. Plot No. 557 situated at Morabadhi, Booti Road, Ranchi belonging to late B. M. Lakshman Rao was occupied by the Army authorities on or about 01/04/1946 without settling any terms with the owner of the land. As a result of constant agitation or by the owner the unauthorized occupation of the land was regularized by Government into hiring to be effected from 1st Jan 1946 to 31 March 1960 at an annual rent of Rs.446/- payable with effect from 1st Aug 1953 only as owner preferred his claim for the first time only in July 1956.*
 - (ii) *That on perusal of old records it is seen that when the MEO Bengal Circle wanted to execute the hiring agreement it was stated by the then Deputy Director, Military Law and Cantonments (DD., ML&C), Eastern Command that the responsibility for the land regularization by hiring was that of the MES. Ultimately it appears that the agreement was not executed.*
 - (iii) *That on the expiry of the period of sanction Government decided that the period of lease should be extended up to 31 March 1963 and when the owner was approached to execute the hiring agreement for the period 01/04/1960 to 31/03/1963 he refused to do so on the plea that the rent was inadequate.*
 - (iv) *That Sri B. M. Mukund Rao (S/o B. M. Lakshman Rao) forwarded an affidavit from 1 Class Magistrate, Jamshedpur Stated that Sri B. M. Lkshman Rao (his father) has expired on 09/08/1966 and he is the only heir of his late father. He has also submitted an affidavit that he had a married sister namely Mrs. Malati S.*



Karnad, W/o Sri Shankar Rao Karnad, was also residing at 1/K. D-Flat, Telco, P.S. Telco, Jamshedpur. She had filed no objection in favour of B. M. Mukund Rao over the right, title and interest in the 4.46 acres of land for the purpose of probate, which is evident from Order dated 30/03/1973 (Annexure 1 of the Writ Petition). Hence, being the exclusive/absolute owner of the said property, he was entitled to receive rent from the Government. Accordingly, the rent was being paid to him regularly.

(v) That rent @ Rs. 446/- per annum was being paid to the owner by G. E., Ranchi and the same was received by the owner under protest. Further on expiry of sanction on 31/03/1965 fresh sanction was issued by HQrs. B&O, Sub Area on 06/12/1966. The same was being regularly revised from time to time. The rent was revised from Rs.446/- per annum to Rs. 3600/- per annum and their after from Rs. 3600/- per annum to Rs. 5000/- per annum with effect from 01/02/1978. The administrative sanction to that effect was conveyed vide D. G. D. E. letter no. 11/10/CC/Claims/DLC dated 03/04/1978 and HQrs B&O Sub Area Danapur Adm sanction no. 5600/A/1/83 dated 17/05/1978.

(vi) That on perusal enquiry by a representative of this office it was reported that Sri B. M. Mukund Rao expired in the year 1998 and hence payment of rent was held up. An official letter was issued to Sri. B. M. Mukund Rao vide our letter no. BIH/20139/Dis/A/Payment/205 dated 11/02/2003, which was returned undelivered by the postal authorities.

(vii) That one Salim Pasa Jagirdar stated to be holder of Power of Attorney of Late B. M. Mukund Rao, intimated that Sri B. M. Mukund Rao has expired on 04/09/1998 and he was appointed as Power of Attorney holder by late B. M. Mukund Rao on 15/04/1998 and he was authorized to receive rent. The said Sri Salim Pasa Jagirdar has submitted a copy of the General Power of Attorney in the office of Respondent No. 3 after the death of Sri B. M. Mukund Rao, which has been executed before Notary, Union of India.

(viii) That said Sri Salim Pasa Jagirdar has further executed a General Power of Attorney in favour of Sri Mohan Kumar Kapoor S/o Sri Jaganath Kapoor resident of B. No.-3, Kargali Colony Malwari, Pune. That trhe said Sri Salim Pasa Jagirdar has also requested the DEO, Danapur to take notice to make the payment of rent dues to this Power Attorney to Mr. Mohan Kumar Kapoor as he has transferred his Power of Attorney to him.



(ix) That the case was referred to Sri Harish Chandra Prasad CGSC Civil Court Patna, to render his legal opinion along with the copies of the Power of Attorney furnished by Sri Salim Pasa Jagirdar and transfer of Power by him Mr. Mohan Kumar Kapoor under letter No. BIH/20139Dis/A255 dated 16/12/2004. The CGSC opined to pay the rent to Sri Mohan Kumar Kapoor, holder of Power of Attorney vide his opinion dated 18/12/2004. Although the Attorney was entitled to receive rent till Sri B. M. Mukund Rao was alive.

(x) The case was referred by DEO to Principal Director, Defence Estate for necessary advice that whether payment can be released in favour of Sri Mohan Kumar Kapoor vide our letter no. B111/20139/Dis/A/263 dated 18/01/2005 due from September 1998.

(xi) That further as per the instruction contained in PD, DE, Lucknow letter 21765/Misc/DNR/HRG dated 17/05/04 the case was taken up with the Military Authorities for de-hiring of the subject land and rent paid to land owner in the past may be recovered from 03/11/GR.

(xii) That administrative sanction for the continued hiring of the land has been accorded for the period from 01/01/2001 to 31/12/2006 vide HQs, B&O Sub Area letter no. 3606/A/1/Q dated 10/08/2000 and as per instruction from PD, DE, Lucknow vide their letter dated 29/03/2005 to release the payment of land rent the arrears of land rent i.e. Rs. 31692/- with effect from 01/09/98 to 31/12/2004 has been released and paid to Sri Mohan Kumar Kapoor after obtaining a bank guarantee of nationalized bank authorities of Rs. 35000/-. Further rent bill for the period from 01/01/2005 to 31/05/2005 has not been passed by audit authorities thus the rent is held up from January 2005 onwards.

(xiii) That Sri Mohan Kumar Kapoor vide his representation dated 17/05/05 requested to release the hire land measuring 4.46 Acres at Ranchi. In this regard letter from Station Head Quarter Ranchi letter No. 3080/9/1/Q31 dated 19/07/05, even no dated 31/08/05 & Additional DG, Army Head Quarters letter no. 77799/11/253/W (Central) dated 30/06/05 were issued.

(xiv) That Principal Director, Defence Estate, Central Command vide its letter dated 06/12/2005 directed to DEO, Danapur Circle that get in touch with Malati S. Karnad sister of individual if alive or her children.



(xv) That vide letter dated 27/01/2007 and 14/02/2007 the station Head Quarter Ranchi addressed to the higher authority informing that Power of Attorney not accepted by the principal Director Land Head Quarter Central Command with copy to others.

(xvi) That the Writ application filed by the petitioner is not maintainable because of the fact that property mentioned in Writ application was on hiring and not requisitioned as much as since the property was contiguous to the other property requisitioned by the Army during those day in 1946. The petitioner claimed for de-requisition of the property has got no basis. When the property occupied by Army in 1946 at that time Defence of India Rules 1939 was enforced as such the property can not be released under RAIP Act 1952 and Rules 1953.

(xvii) That in reply to Para-1 of the writ petition, the answering Respondents say and submit that the same is prayer made by the Petitioner for payment of recurring compensation and release of the property and hence no comments.

(xviii) That in reply to Para-2 of the writ petition, the answering Respondents say and submit that the statement made therein requires no comment.

(xix) That in reply to Para-3 of the writ petition, the answering Respondents say and submit that the statement made therein are points of law to be adjudicated by the Hon'ble Court. Although this points are not involved in this writ application and hence requires no comments.

(xx) That in reply to Para-4 of the writ petition, the answering Respondents say and submit that the statement made therein are matter of records and hence requires no comments.

(xxi) That in reply to Para-5 of the writ petition, the answering Respondents say and submit that the statement made therein are admitted that the Army have occupied the property in 1943, rather it has been occupied on 01/04/1946, since the property was contiguous to other requisition property. The terms of settlement for payment of compensation or rent was not condition precedence under Rule 75-A (4) of Defence of India Rules, 1939. Although Land was taken when Defence of India Rule 1939 was in force.

(xxii) That in reply to Para-6 to 10 of the writ petition, the answering Respondents say and submit that the statement made therein are admitted, since these facts are available in the records of the case file.



(xxiii) That in reply to Para-11 of the writ petition, the answering Respondents say and submit that the statement made therein are also matter of record where the same Malati Rao Karnad was Opposite Party No. 1(one) and the same is also reflected in Annexure-1 that is in the probate petition and judgment dated 30/03/1973.

(xxiv) That in reply to Para-12 of the writ petition, the answering Respondents say and submit that the statement made therein are correct except the words recurring compensation rather it is on rent.

(xxv) That in reply to Para-13 of the writ petition, the answering Respondents say and submit that the statement made therein is matter of records as such admitted.

(xxvi) That in reply to Para-14 & 15 of the writ petition, the answering Respondents say and submit that the statement made therein is not admitted in the matter for enhancement of recurring compensation at the rate of Rs. 12,000/- per annum.

(xxvii) That in reply to Para-16 & 17 of the writ petition, the answering Respondents say and submit that the statement made therein are admitted.

(xxviii) That in reply to Para-18 & 19 of the writ petition, the answering Respondents say and submit that the statement made therein is true that B. M. Mukund Rao shifted to Pune with his wife, since he wastenseless. It is the best known to the Respondent that he was sometime residing at Jamshedpur after the death of his wife with his Sister Malati Rao Karned.

(xxix) That in reply to the statement made in Para-20 of the writ petition, the answering Respondents say and submit that the Respondent came to know from the Petitioner that his mother Malati Rao Karnad died on 14/01/1991. It is true that the B. M. Mukund Rao died on 04/09/1998 and that too without any will otherwise anybody would have come with probate. It is also fact that payment is due since 1998 but no request ever received by the respondent authority at any point of time except Annexure - 5A.

(xxx) that in reply to the statement made in Para-21 of the writ petition, the answering Respondents say and submit that the death of B. M Mukund Rao came into the knowledge of respondent authority when the payment of returned back by the postal authorities with endorsement. It is true that respondent authority published in newspaper for lodging the claim with regard to property in question and the claim has been lodged by the



petitioner. It is not true that respondent authority is not paying any heed, rather the fact is that the claim of the petitioner is under consideration.

(xxxi) That in reply to the statement made in Para-22 of the writ petition, the answering Respondents say and submit that the representation of the petitioner is under active consideration, which requires some time.

(xxxii) That in reply to the statement made in Para-23 of the writ petition, the answering Respondents say and submit that the Army Authorities not occupied the land in question unauthorizedly and that too on settlement of the term from 01/04/1946 vide letter dated 30/07/1959.

(xxxiii) That in reply to the statement made in Para-24 of the writ petition, the answering Respondents say and submit that the property occupied by Army on 01/04/1946 when the Defence of India Rule 1939 was in force as such under the said Act. Therefore RAIP Act 1952 will not apply.

(xxxiv) That in reply to the statement made in Para-25 of the writ petition, the answering Respondents say and submit that the rent is due since 1998 and not the recurring compensation and non payment of rent is not ground for vacation of the property.

(xxxv) That in reply to the statement made in l'ara-26 of the writ petition, the answering Respondents say and submit that the property occupied by the Army on 01/04/1946 when the Defence of India Rule 1939 was in force. Therefore RAIIP Act 1952 will not apply.

(xxxvi) That in reply to the statement made in Para-27 of the writ petition, the answering Respondents say and submit that the genology given Annexure-5A, shows the relation of petitioner with Original Owner.

(xxxvii) That in reply to the statement made in Para-28 of the writ petition, the answering Respondents say and submit that the petitioner has filed the writ petition with relevant documents showing his claim through Original Owner B. M. Lakshman Rao but that cannot be ground to release the property Under Section 6(1-A) of RAIP Act 1952, because the property was occupied when Defence of India Rules 1939 was applicable and under the said Act.

(xxxviii) That in reply to the statement made in Para-29 & 30 of the writ petition, the answering Respondents say and submit that the property occupied by the Army on 01/04/1946 when the



Defence of India Rules 1939 was in force. Therefore RAIP Act 1952 will not apply.

(xxxix) That in reply to the statement made in Para-31 of the writ petition, the answering Respondents say and submit that the statement made therein requires no comment.

(xl) that in view of the submissions made in the preceding Paras of the writ petition it is most humbly and respectfully submitted that in view of the statement made herein above, the petitioner is not entitled for any relief and the writ petition filed by the petitioner is not maintainable and is liable to be dismissed.

(xli) That the Answering Respondents deny all the statement made by the Petitioner which are contrary to the records of this case and which are contrary to the pleading made by the Answering Respondents hereinabove.”

30. Thus, it is evident that the issue of requisition has seriously been disputed, rather the stand *inter alia* has been taken that that land has been hired and occupied in the year 1946. It has further been disputed so far as the title of the original writ petitioner, namely, Jayant Karnad over the land in question is concerned.
31. The learned Single Judge although has referred the content of the counter affidavit but ignoring the factum of land having been occupied by the appellanton making payment of compensation has not been considered properly since no finding to that effect has been given, rather, the issue has been taken into consideration only on the pretext of land having been requisitioned which led the learned Single Judge to apply the provision of section 6(1-A)(a) of the Requisitioning and Acquisition Act, 1952 wherein it has been provided that if the land is not being utilized for the purpose for which it has been requisitioned, the land is to be restored in favour of the original raiyat, the said part of the impugned judgment passed by the learned writ Court is referred hereunder as:



From the counter affidavit filed on behalf of the respondents it appears that it has been admitted that the land in question was occupied on 1.4.1946 as the same was contiguous to other requisitioned property, Still it has been pleaded that since the property had been occupast by Army at the time when the Defence of India Rule, 1939 was in force and as such, the petitioner is not entitled to any relief in terms of the provisions of Requisitioning and Acquisition of Immovable Property Act, 1952

The stand taken on behalf of the respondents seems to be baseless. It has already been noticed that respondents have admitted that on the land in question was occupied by Army and in that view of the matter, the land in question would certainly be taken to have been requisitioned in terms of definition of 'requisition' as given in Rule 2(11) of the Defence of badia Rule, 1939 and that requisition, according to the respondents, had been made in the year 1946 though, according to the case of the petitioner, it was requisitioned in the year 1943 and as such, it remained in possession for about 61 years according to respondents and now the petitioner in terms of Section 6(1-A)(a), has filed this application for release of the property.----

From bare perusal of the said provision it would appear that even the property requisitoned much before the commencement of the Requestioning and Acquisition of Immovable Property (Amendment) Act, 1970 would be deemed to have been nequisitioned under the said Act and as such, even the property requisitioned under the Defence of India Act, 1939 would be encompassed within the provisions as contained in Section 1 (1-A)(a) of the Act.

In order to have a clear picture, one needs to have history of the legislations relating to requisition of property for the use of the Army. During the war, the lands and buildings were requisitioned under the Defence of India Act, 1939 and the tules made thereunder and such property continued to be the subject to requisition under the Requisitioned Land (Continuance of Power) Act, 1947. That Act was due to expire on 31.3.1952 and as Government of India had no power to requisition any property outside Delhi, necessity was felt to take measure to ensure the continuance of the requisition of the premises already requisitioned under the Defence of India rule and continued to be the subject to requisition under the Requisitioned Land (Continuance of Power) Act, 1947 also to secure power for the Central Govemment to make



fresh requisition in order to meet its demand, the Requisitioning the Acquisition of Immovable Property Act, 1952 was enacted and thereby the Act of 1947 got repealed. The said Act of 1952 was Initially to operate for a period of 6 years but its duration was extended from time to time. Then came the Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1970 which made the Requisitioning Act of permanent nature but restricted the period for which requisitioned property could be retained under requisition to 3 years from the commencement of the aforesaid Amendment Act in the case of properties requisitioned before such commencement. Thus, the properties requisitioned before the commencement of the said Amendment Act could be retained under the requisition upto March 10, 1973. Even after spiry of March 10, 1973, large number of properties could not be released as there was still necessity of those properties and, therefore, it was decided to have a continued requisition for a longer period by amending Act from time to time. Lastly, the Act was amended by the Act 20 of 1985 whereby all the properties which were requisitioned prior to the amendment of requisitioning Act in 1970 were required to be released from requisition by 10th of March, 1985.

Thus, it is evidently clear that even the properties requisitioned under the provision of Defence of India Act read with Rules will be subject to de-requisition in terms of the provisions as contained in Section 6(1-A)(a) of the Requisitioning and Acquisition Act, 1952. Therefore, under the said provision the land in question should have been released by 10th of March, 1985, but the Army has retained its possession till date which is certainly in gross-violation of the law.

Accordingly, the petitioner is entitled to have the property released in his favour. Consequently, respondents are hereby directed to release the land in question in favour of the petitioner without any further delay, preferably within a period of two months from the date of receipt/production of a copy of this order.

With the aforesaid direction/observation, this writ application is allowed.”

32. The question is that if any issue has been raised before any Court of Law, it is the bounden duty of the Court of Law to decide the issue by framing particular issue and it is not available for the Court of Law to



skip one ground and answer the other as the judgment passed by the learned Single Judge reflects herein.

33. Since, the issue of requisition was taken on behalf of the writ petitioner while the same has been disputed by taking the ground that the land has been hired by the Indian Army.
34. This Court, therefore, is of the view that in such a situation it was the bounden duty of the learned writ Court to formulate both the issues for the purpose of its consideration based upon the relevant documents and the stand inter alia taken on oath, but that endeavour has not been taken by the learned Single Judge, rather, leaving aside the issue of land said to be hired only the consideration has been given to the issue of requisition.
35. The second ground which has been taken into consideration by this Court that what is the scope of the writ Court in a case of disputed question of fact, that too, in the matter of declaration of right and title over the land in question, if the right and title of property is being questioned by a party being interested in the property.
36. It is well settled that the writ proceeding is a summary proceeding where there is no scope to lead evidence rather the adjudication is to be made on the basis of the stand taken on oath without getting the document exhibited as per the procedure laid down under the Code of Civil Procedure.
37. So far as the issue of declaration of right and title over the land in question is concerned, the same cannot be adjudicated and should not be adjudicated by the learned writ Court where the requirement is to lead evidence by settling issues for the purpose of adjudication of right



so as to declare the right and title in favour of a party who is claiming the right and title.

38. The Hon'ble Apex Court in the case of **Antonio S.C. Pereira v. Ricardina Noronha, (2006) 7 SCC 740** has categorically observed that it is now trite that ordinarily a writ court would not go into a disputed question of title, for ready reference the relevant paragraph of the said judgment is being quoted herein which reads as under:

17. It is now trite that ordinarily a writ court would not go into a disputed question of title. *We have noticed some of the issues pending before different courts only for the purpose of showing that the parties are at loggerheads as regards the title of the property and in particular the legality or validity of the alterations in the terms of the Will.*

39. In the case of **Roshina T. v. Abdul Azeez K.T., (2019) 2 SCC 329** the Hon'ble Apex Court has specifically held that a regular suit is the appropriate remedy for settlement of the disputes relating to property rights between the private persons. The remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of statutory authority is alleged. In such cases, the Court has jurisdiction to issue appropriate directions to the authority concerned. It is held that the High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law, civil or criminal are available. For ready reference the relevant paragraph of the aforesaid order is being quoted herein which reads as under:

9. *In our considered opinion, the writ petition filed by Respondent 1 under Articles 226/227 of the Constitution of India against the appellant before the High Court for grant of relief of restoration of the possession of the flat in question was not maintainable and the same ought to have been dismissed in limine as being not*



maintainable. In other words, the High Court ought to have declined to entertain the writ petition in exercise of extraordinary jurisdiction under Articles 226/227 of the Constitution for grant of reliefs claimed therein.

14. It has been consistently held by this Court that a regular suit is the appropriate remedy for settlement of the disputes relating to property rights between the private persons. The remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of statutory authority is alleged. In such cases, the Court has jurisdiction to issue appropriate directions to the authority concerned. It is held that the High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law, civil or criminal are available. This Court has held that it is not intended to replace the ordinary remedies by way of a civil suit or application available to an aggrieved person. The jurisdiction under Article 226 of the Constitution being special and extraordinary, it should not be exercised casually or lightly on mere asking by the litigant. (See Mohan Pandey v. Usha Rani Rajgaria [Mohan Pandey v. Usha Rani Rajgaria, (1992) 4 SCC 61] and Dwarka Prasad Agarwal v. B.D. Agarwal [Dwarka Prasad Agarwal v. B.D. Agarwal, (2003) 6 SCC 230])

40. In the case of **HMT Ltd Vs. Rukmini and Others 2024 SCC OnLine SC 2614**, the Hon'ble Apex Court while appreciating the core of the **Requisition and Acquisition of Immovable Property Act, 1952** (for brevity, 'the Act of 1952') has observed that if several disputed questions of fact involved therein then it could not have been adjudicated by the High Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution, relevant paragraph of the aforesaid judgment is being quoted herein which reads as under:

17. In any event, the issues that arose in the context of what has emerged in this case clearly demonstrate that several disputed questions of fact would come up, which could not have been adjudicated by the High Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution. Thus, viewed in any light, W.P. No. 16553 of 2006 filed by the respondents/writ



petitioners ought not to have been entertained. The judgment dated 05.09.2019 and the order dated 13.09.2019 passed by the Division Bench of the High Court of Karnataka, Bengaluru, allowing the said writ petition, therefore, cannot be sustained on grounds more than one.

41. Adverting to the factual aspect of the present case herein also, the appellant has seriously disputed the title of the original writ petitioner by raising the issue of non-availability of the document related to inheritance of the property in question, rather, the property on the basis of the will was in favour of B.M. Mukund Rao.
42. The said stand as has been taken in the counter affidavit thus suggests that the issue of title of the original writ petitioner was seriously in dispute and, as such, as per the ratio rendered by the Hon'ble Apex Court in the aforesaid judgment quoted and referred hereinabove in the preceding paragraphs, it was required for the learned writ Court instead of adjudicating the issue by conferring title upon the original writ petitioner to relegate the party to approach before the competent Court of civil jurisdiction for the purpose of declaration of right and title.
43. Thus, on the basis of discussion made hereinabove it is considered view of this Court that in light of the facts of the case and the complicated questions of facts involved, generally the extraordinary writ jurisdiction under Article 226 of the Constitution of India cannot be exercised.
44. There is no dispute that so far as the inheritance of immovable property is concerned the succession certificate is not required as mandated under Indian Succession Act, 1925, but such proposition is only applicable where there is no dispute over the title of the property in question but the moment the title over the property in question is being disputed by a party having interest over the property in question,



then certainly, it requires adjudication by the competent Court of civil jurisdiction where the evidence is required to be laid and certainly, the same is not permissible under the writ jurisdiction.

45. The Enforcement Directorate has entered into the sue, at this stage, by taking the plea that subsequent to the order of the writ Court the property in question has been attached under the provision of section 5 of the PML Act, 2002 on the ground of institution of ECIR case being RNZO/18/2022 and the attachment of the said property in question has also been affirmed by adjudicating authority. The order passed by the adjudicating authority has been challenged by the purchaser of the property in question, as also on behalf of the original writ petitioner, before the Appellate Tribunal being Appeal No. MP-PMLA-1667/RNC/2024 Exemp. FPA-PMLA-763/RNC/2024 however, the said appeal was ultimately withdrawn by the Petitioner vide order dated 04.09.2025 and as such the order of attachment has become "FINAL".
46. This Court has considered the provision of section 67 of PML Act, 2002 on the backdrop of the fact that once the property has been attached by the Enforcement Directorate and the attachment has been affirmed, and appeal file against the said attachment has also been withdrawn preferred against the order of attachment, then in such a admitted fact the respondent (original writ petitioner) now cannot claim the perfect title over the land in question.
47. Accordingly all issues answered herein.
48. This Court, in the entirety of fact and circumstances of the case as referred hereinabove, is of the view that the learned Single Judge, since, has not taken into consideration the following aspect of the matter:



- (i) There is no cogent finding by the learned writ Court on the status of the original writ petitioner that the original writ petitioner was the sole surviving legal heir of B.M. Mukund Rao.,
- (ii) The appellant has disputed the right of the original writ petitioner over the said land but the same has not been properly appreciated by the learned writ Court.
- (iii) Learned writ Court has given one way finding that the land in question was requisitioned and further there is no finding on the claim of the appellant that the said land was hired and rent was paid against the said land and further rent was enhanced time to time on the request of the actual right holder. Thus, the claim of appellant that land was never requisitioned rather hired has not been appreciated by the learned writ Court.
- (iv) The learned writ Court has exercised the writ jurisdiction in spite of the fact that the lis between the parties involves disputed and complicated question of factlike:
 - a) The nature of the possession of the appellant over the land (requisitioned/hired),
 - b) The claim of the writ petitioner of being the sole surviving legal heir of the Late BM Mukund Rao,
 - c) The claim of the power of attorney holders, the right of the writ petitioner over the land etc., are all questions of fact, which require proper evidence;

49. This Court, on the basis of discussion made hereinabove is of the view that the impugned order/judgment needs interference and, accordingly, the same is hereby quashed and set aside.



50. Accordingly, the instant appeal being L.P.A No.205 of 2009 stands allowed.

51. Consequently, the writ petition is hereby dismissed.

52. Pending I.As, if any, stands disposed of.

I agree

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

Sudhir
Dated:15/01/2026
Jharkhand High Court, Ranchi
A.F.R.
Uploaded on 17/01/2026