

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No. 4015 of 2023

Kedar Prasad Gupta

----- Petitioner(s).

Versus

The State of Jharkhand and Ors.

..... Respondent(s)

CORAM : SRI ANANDA SEN, J.

For the Petitioner (s) : Mr. A.K. Sahani, Advocate.

For the respondents : Mr. Rishabh Kaushal, AC to GP-II

04/13.06.2024: In most perfunctory manner, the Sub-Divisional Magistrate, Dumri, District- Giridih has filed a counter affidavit.

2. It is the case of the petitioner that he is the purchaser of the land in question, and respondent No. 5 has forcibly entered upon his land with JCB Machine and has started making construction, thereby threatened peaceful possession of the petitioner. The petitioner approached the Deputy Commissioner. The Deputy Commissioner vide Annexure-7 directed the SDM/SDO Magistrate, Dumri, District- Giridih to take appropriate steps. It is the grievance of the petitioner that the respondents have not taken any steps, thus he has been forced to approach this Court.

3. A counter affidavit has been filed by the SDO/SDM Dumri, Giridih. In para 14, he has made the following statements;

“14. That with regard to statements made in paragraph 6 to 19 of the instant writ petition, it is humbly stated and submitted that the same are vague and incomplete. The petitioner has suppressed that who was the recorded tenant of land of Khata No. 34 in question and from which document the vendor of the petitioner Bulaki Singh has acquired right, title, interest and transferable authority and also suppressed that there is serious dispute of title in between petitioner and private respondent No. 5 and several others is existing and that can be decided only by competent jurisdiction of Civil Court, revenue papers are not evidence of title. In such circumstances, instead of filing present writ petition or application before answering respondents, the petitioner should file regular title suit against the persons who are claiming counter title over land in question and get declaration of title and resolve the dispute forever. Thus the present writ petition is baseless and misuse of process of law the allegations made by petitioner in the said paragraph are incorrect and are hereby denied.”

4. There is no document annexed with this counter affidavit. Further, the SDO stated that part of the statements made in para- 14 of the counter affidavit is within in his personal knowledge, which is apparent from the affidavit.
5. Without annexing any document, how the SDM, Dumri, Giridih had reached a conclusion that there is title dispute between the petitioner and respondent No. 5, is not understood by this Court.
6. If in a counter affidavit, a statement and some assertion has been made, the same should be backed by document, which is not in this case. In a most perfunctory manner, the SDM, Dumri, Giridih has filed this counter affidavit.
7. Thus, I direct the Deputy Commissioner, Giridih to file personal affidavit in this case within two weeks.
8. The SDM, Dumri, Giridih is cautioned not to file this type of counter affidavit in future.
9. Let a copy of this order be communicated to the Chief Secretary, Govt. of Jharkhand, Ranchi as well as the Deputy Commissioner, Giridih, for doing the needful.
10. List this case after four weeks.
11. In the meantime, issue notice to the respondent No. 5, for which, requisites etc. under registered cover with A/D as well as ordinary process must be filed within a week.