

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No. 273 of 2024

Surendra Prasad Choudhary ... **Petitioner**
-versus-
The State of Jharkhand & Others ... **Respondents**

CORAM : SRI ANANDA SEN, J.

For the Petitioner : Mr. Ramawatar Choubey, Advocate
For the Respondents : Ms. Darshana Poddar Mishra, AAG-I
Mr. Rohit, AC to AAG I
Mr. Rajeev Ranjan Tiwary, Advocate
Mr. Ranjit Kumar Tiwari, Advocate

6/ 19.03.2024 Respondent No.5 has appeared suo moto and has filed an affidavit, which is kept on record.

2. A litigant, after fighting for long years, gets relief from the High Court or the Supreme Court, as the case may be. He is filled with joy on getting the decree in his favour after contesting for long years. But, this smile of joy, within few years, is converted into a gloom and his smile vanishes as he does not get the fruit of the decree.

3. This harsh reality was brought to light by none other than the First Citizen of this country, who is the supreme constitutional authority, in her address during the inauguration of this temple of justice, i.e., the new building of the High Court of Jharkhand.

4. This harsh reality has come up before this Court through this writ petition filed by the petitioner. This is a classic example where the petitioner, who has got a decree in his favour in a Civil Suit, has not got the true fruit of the decree. The petitioner is litigating since March 1979 and even after fighting for long 43 years also, he has not got the fruits of the decree.

5. On 2nd March, 1979, the father of this petitioner along with others, filed Title Suit being Title Suit No. 12 of 1979, praying for right, title, interest and confirmation of possession over the suit property in Schedule 'A'. Alternative prayer was made that if in the event the plaintiffs are found to be dispossessed, they may be put back in possession. The defendants in the said suit appeared and filed their written statement. The ancestors of private respondents were party to the suit as defendants. The suit was ultimately dismissed. The plaintiffs, thereafter, preferred an appeal being Title Appeal No.14 of 1980 before the District Judge, which was dismissed by judgment dated 14.06.1982. The plaintiffs, thereafter, preferred a second appeal being

-: 2 :-

Second Appeal No.144 of 1982(R) before the High Court, which was allowed on 03.01.1989 and the matter was remanded to the First Appellate Court. The First Appellate Court, thereafter, took up the appeal and after hearing the parties, vide judgment dated 26th May, 2005 set aside the judgment and decree passed by the Trial Court and allowed the appeal by decreeing the suit in favour of the plaintiffs, who were ancestors of the petitioner herein. In paragraph 46 of the aforesaid judgment, learned First Appellate Court has held as follows: -

46. In the result this Court finds and held that the plaintiffs succeeded to prove their right, title, interest and possession over the suit land described in Schedule A of the plaint and the entries regarding suit land made in the name of defendants in the revisional survey is incorrect and suit land directed to be recorded in the name of plaintiffs and the same are part of their settled land by Ext.3 map.

6. The said judgment in the first appeal was challenged by the defendants in Second Appeal No.234 of 2005 before the High Court of Jharkhand. By a detailed reasoned order, the second appeal was dismissed on 03.09.2010. The appellate judgment and decree were affirmed. The defendants challenged the same before the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No.3817 of 2011, which was also dismissed by the Hon'ble Supreme Court on 22.02.2011.

7. Thus, from the aforesaid facts, it is clear that the right, title and interest of the petitioners/their ancestors over the Schedule 'A' property, which is also the subject matter of this writ petition, was upheld and confirmed. The First Appellate Court also found that the plaintiff (ancestors of the petitioner herein) are in possession over the suit land described in Schedule 'A', thus, their possession over the said land was also confirmed.

8. Now, by filing this writ petition, petitioner has approached this Court ventilating their grievance against the State. It is their case that inspite of the aforesaid judgments and orders, rent receipts are not being issued in favour of the petitioners, which was stopped during the pendency of the Civil Suit / Appeal. This is how, inspite of having a decree in favour of the petitioner, the petitioner is being deprived of fruits of the same. Thus, the feeling of the First Citizen of the country gets relevance in the facts of this case.

9. Since there was a threat of the petitioners being evicted from the land in question, on 02.02.2024, a Coordinate Bench of this Court had directed to maintain status quo over the lands.

-: 3 :-

10. During course of argument, it was submitted that the private respondent herein, who is the descendent of the defendants in the Title Suit, had filed another suit against this petitioner in respect of the same land in question, that is why the State is not taking steps in respect of issuance of rent receipts. Since this defence of the State is frivolous, when a Civil Court has decreed the suit in favour of the petitioner's ancestors, which was tested up to the Hon'ble Supreme Court, this Court directed the Revenue Officers to remain present before this Court on 07.03.2024. As no proper reply was given by the Officers, this Court gave opportunity to the officers and adjourned the case for today. Today Roshma Dungdung, Block Development Officer, Barkatha and Shree Kant Lal Manjhi, Circle Officer, Raidih, Gumla as also the respondent No.5 are present, but, again the same plea has been taken. An additional plea has been taken by the State that the land records have not been corrected and without correcting the same, petitioner cannot get any relief. The respondents have also taken another plea that the petitioner, for this relief, had approached after 12 years from the judgment, thus, he is not entitled to the relief. The State blames the petitioner for laches on his part. The argument of the State is preposterous.

11. If paragraph 46 of the judgment of the First Appellate Court is read, it is clear that it was the duty of the State to correct the revisional survey record as it has already been held that in the record the name of the defendant is wrongly entered. The State did not correct the same, nor did they issued rent receipt also to the appellant. There cannot be more injustice done to this petitioner by the State than what has been done now. This sort of situation cannot be conceived of.

12. It was the State who had to correct the record in terms of the judgment passed by the Appellate Court, but it slept. They behaved like a private litigant, which is unexpected of them. The State should have suo moto corrected the revenue records immediately after the First Appellate judgment or at least after the dismissal of the Special Leave to Appeal. The integrity of the concerned revenue officials of the State, thus, comes under cloud. Due to these types of officials, litigations are increasing and the poor common man is not getting the relief in time, which they are entitled to. Be it noted that since the possession of the petitioner and/or his ancestors has already been declared in a decree in a title suit and affirmed up to the Hon'ble Supreme Court, no authority should have expressed any doubt over the same.

-: 4 :-

13. The fact remains that this poor person had to approach this Court for his legitimate right, approval of which has been given by the Hon'ble Supreme Court in his favour where right, title, interest and possession also has already been declared. These types of indifferent attitude needs to be addressed by this Court in a very harsh manner with a strong hand.

14. To give one more opportunity to the State, I direct the State to immediately implement the direction given by the learned Appellate Court in Title Appeal No.14 of 1980 at paragraph 46 of the said judgment and report to this Court by 03.04.2024, failing which the Revenue Secretary, Government of Jharkhand and the Chief Secretary will remain present before this Court at 04.30 p.m. on the said date so that appropriate order can be passed in their presence.

15. Mr. Shree Kant Lal Majhi, Circle Officer, Raidih, Gumla and Mrs. Roshma Dungdung, Block Development Officer, Barkatha with Additional Charge of Circle Officer, who are present before this Court today shall also remain present on the next date, i.e., 03.04.2024 if the directions as contained in paragraph 14 of this order is not complied with.

16. List this case on 03.04.2024 at 04.30 p.m. under the heading "**For Orders**".

17. Let a copy of this order be communicated immediately to the Chief Secretary and the Revenue Secretary of the State through fax as also through e-mail.

(Ananda Sen, J.)