

**IN THE HIGH COURT OF JHARKHAND, RANCHI
W.P. (C.) No. 4667 of 2012**

Md. Shahid Raja, S/o Md. Khalil Ansari, R/o village – Ukrid, now
Sector – 12, PO – B.S. City and PS – Sector – 12, District -
Bokaro **.... Petitioner**

-- Versus --

1. The State of Jharkhand, through the Deputy Commissioner,
Bokaro
2. Sub-Divisional Officer, Chas, PO and PS – Chas, District –
Bokaro
3. Circle Officer, Chas, PO and PS – Chas, District – Bokaro
4. In-charge, Sector-12, Investigation Centre, Bokaro
5. Ram Bahadur Singh, S/o Late Raja Singh, r/o Qtr. 2260, Sector-
12A, PO – B.S. City, PS – Sector-12, B.S. City, District – Bokaro
6. Sharda Devi, w/o Bhagwati Sharan Singh, r/o Sector – 2/A, Qtr.
3-244, BS City, PO and PS – Bokaro, District – Bokaro,
Jharkhand **.... Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner	:-	Mr. Raj Nandan Sahay, Sr. Advocate
	:-	Mr. Kirtivardhan, Advocate
	:-	Mr. Aditya Aman, Advocate
	:-	Mr. Ritesh Singh, Advocate
For the State	:-	Mr. Vineet Prakash, Advocate
For Respondent No.6	:-	Mr. Vijay Bahadur Singh, Advocate

16/07.07.2026 Heard learned counsel appearing for the petitioner, learned
counsel appearing for the State and learned counsel appearing for
the respondent No.6.

2. Respondent No.5 has already appeared, however, on
repeated call nobody has appeared on behalf of respondent No.5.
This matter is of the year 2012 and in view of that in absence of

respondent No.5 the present petition is being disposed of.

3. This petition has been filed under Article 226 of the Constitution of India for quashing the order dated 10.04.2012 passed by respondent No.2, Sub-Divisional Officer, Chas, District - Bokaro.

4. Mr. Raj Nandan Sahay, learned senior counsel appearing for the petitioner submits that petitioner's father had purchased 8 decimals of land in plot No.464 from a total area of 58 decimals of the said plot in Khata No.26, Thana No.38, Mauja – Tetulia, Sub-Registry Office – Chas, Pargana – Khaspel, PS – Chas, District – Dhanbad (now district – Bokaro) from Smt. Kumari Ghatwalin w/o Late Bhikhari Singh by a registered sale deed executed on 06.11.1979 at Sub-Registry Office, Chas. He further submits that one Sri Mehar Babu Ansari also purchased 50 decimals of land out of the total area of 58 decimals in the said plot. He then submits that Sri Mehar Babu Ansari has sold 8 decimals of land from 50 decimals of land purchased from Smt. Kumari Ghatwalin by the aforesaid registered sale deed dated 12.07.1979. He next submits that petitioner's father Md. Kalil Ansari after purchasing the aforesaid 8 decimals of land got the same mutated in the office of Circle Officer – Chas and thereafter name of the father of the petitioner has entered in Register-II. He also submits that the petitioner is paying rent after the said mutation. He next submits that thereafter father of the petitioner has remained in peaceful possession of the said plot. He next submits that the petitioner

came to know that the Sub-Divisional Officer, Chas, District – Bokaro has passed an order on 10.04.2012 on the basis of DR No.137/12 dated 27.01.2012 submitted by In-charge of Sector-12 Investigation Centre, Bokaro for putting respondent No.5 namely Sri Ram Bahadur Singh in possession of 58 decimals of land of Mauja – Tetulia, Khata No.26, Plot No.464. He next submits that by the impugned order dated 10.04.2012 force have been directed to deploy for giving possession in favour of respondent No.5 which is without jurisdiction. He next submits that forcefully the petitioner has been dispossessed and in view of that the petitioner has filed the present writ petition. To buttress this argument, Mr. Sahay, learned senior counsel appearing for the petitioner relied in the case of ***Deba Jyoti Dutta and Ors. versus State of Bihar and Ors. reported in (1987) SCC OnLine Pat 156.***

5. Relying on the above judgment, Mr. Sahay, learned senior counsel appearing for the petitioner submits that once the arbitrary actions are there, the High Court is competent to pass appropriate order sitting under Article 226 of the Constitution of India.

6. Mr. Sahay, learned senior counsel appearing for the petitioner further relied in the case of ***Shailendra Kumar Gupta and Another versus State of Jharkhand and Others reported in (2024) SCC OnLine Jhar 168.***

7. Relying on the above judgment, Mr. Sahay, learned senior counsel appearing for the petitioner submits that if the action is arbitrary of the State and in absence of any valid proceeding

possession has been taken, the High Court is competent to pass the order. On these grounds, he submits that the writ petition may kindly be allowed.

8. Learned counsel appearing for the State vehemently opposed the prayer and submits that only to maintain the law and order the said orders have been passed by Sub-Divisional Officer, Chas. He further submits that Co-ordinate Bench of this Court vide order dated 24.06.2023 has called the Deputy Commissioner, Bokaro and Sub-Divisional Officer, Chas to remain physically present on 26.06.2023 to explain under what capacity the said order has been passed and pursuant to that supplementary counter affidavit has been filed by the Sub-Divisional Officer, Chas, Bokaro. He then submits that it has come in the enquiry that respondent No.5 namely Ram Bahadur Singh has submitted an application before the Superintendent of Police, Bokaro which was received by the office on 17.07.2011 and in the said application respondent No.5 specifically mentioned that 8 decimals of land pertaining to Khata No.26 Plot No.464 of Mauza – Tetuliya was purchased by him vide Registered Deed No.7141 dated 20.08.1979 and in the said application it has also been mentioned that just after purchasing, a boundary has been erected over the plot and put a lock on the gate. It has also been stated therein that he has paid rent up to 2009 and the land is in his possession. He next submits that in that background the respondent No.5 has requested the Circle Officer, Chas, Bokaro for measurement of the land and deposited the

required fee for measurement which is evident from the order dated 20.08.2011 in land measurement record No.54/2011-12 contained in Annexure-B of the Counter Affidavit. He also submits that Annexure-C series is the report of Circle Officer, Chas, Bokaro and Circle Amin, Chas respectively wherein it has been stated that the said land is surrounded by 6 feet boundary wall constructed by respondent No.5 issued for the year 2010-11 and thereafter the Circle Officer, Chas vide order dated 19.10.2011 dropped the measurement proceeding. He next submits that on the complaint made by respondent No.5, the Officer In-charge Sector – 12 Investigation Centre, Bokaro vide Letter dated 23.01.2012 and 18.07.2012 requested the Superintendent of Police, Bokaro for deputing appropriate number of police force to maintain possession over the land of respondent No.5 and thereafter the Superintendent of Police, Bokaro has deployed the force. He next submits that in the course of hearing the Co-ordinate Bench of this Court by order dated 24.06.2023 directed the Deputy Commissioner, Bokaro and Sub-Divisional Officer, Chas to remain physically present before this Court and in view of that Deputy Commissioner, Bokaro has further directed the Circle Officer, Chas to submit an enquiry report after spot verification and pursuant to that direction of Deputy Commissioner, Bokaro, the Circle Officer, Chas vide letter No.1783 dated 25.06.2023 submitted a report stating that the nature of land is abad malik, pertaining to Khata No.26, Plot No.464 of village – Tetuliya consisting of a 7 feet boundary wall with two asbestos

made rooms, one hand pump, steel gate and two trees and at present the land is in possession of Sharda Devi wife of Bhagwati Sharan Singh contained in Annexure-E series of the counter affidavit. He next submits that respondent No.5 namely Ram Bahadur Singh sold 8 decimals of land pertaining to Khata No.26 Plot No.464 to one Smt. Sharda Devi wife of Bhagwati Sharan Singh vide Sale Deed No.6898 dated 20.09.2012 and her name has also been registered in Register-II at page No.1648 and rent receipts annexed as Annexure-F in the supplementary counter affidavit. He next submits that the petitioner is not in a possession and even in his deed there is no boundary and even the sale deed has not been filed before this Court in the present writ petition. He next submits that intentionally the deed is not being filed before this Court, however, the matter is pending since the year 2012.

9. Learned counsel appearing for the respondent No.6 submits that respondent No.6 has now purchased the land by way of registered sale deed and that is also mutated. He further submits that only to maintain the law-and-order Sub-Divisional Officer, Chas has passed the order. He then submits that there is disputed question of fact and in view of that this writ petition is fit to be dismissed.

10. In reply, Mr. Sahay, learned senior counsel appearing for the petitioner submits that respondent No.6 has also not filed the sale deed. He further submits that 8 decimals of land were not sold to the vendor of respondent No.5. He then submits that statements

made by the State and respondent No.6 cannot be a gospel truth.

11. It is an admitted position that respondent No.5 namely Ram Bahadur Singh has purchased 8 decimals of land from Mehar Babu Ansari by the Registered Deed No.7141 dated 20th August, 1979. Respondent No.5 requested the Circle Officer, Chas, Bokaro for measurement of the land pursuant to that he has deposited the fee and the measurement was done and it was found that the respondent No.5 was in possession.

12. The petition was filed by respondent No.5 namely Ram Bahadur Singh before the Superintendent of Police, Bokaro disclosing therein that in his said land some persons have forcefully entered into the boundary wall and trying to grab the same. A report was also submitted by the concerned Officer In-charge to the Sub-Divisional Officer, Chas and pursuant to that Sub-Divisional Officer, Chas has passed the order to maintain the law and order and to provide the possession of respondent No.5. During the pendency of this writ petition, respondent No.5 has transferred the said land to the respondent No.6. Thus, what transpires that only to maintain the law-and-order situation in the city the order has been passed by the Sub-Divisional Officer, Chas.

13. On further verification by the Deputy Commissioner, Bokaro pursuant to the order of this Court dated 24.06.2023 respondent No.6 was found to be in possession of the said land and even mutation has been done in the name of respondent No.6 further. It has come that although the deed is there of the petitioner, however,

the land of boundary is not disclosed in the said deed.

14. In paragraph No.5 of the writ petition, the petitioner has stated that he will produce the sale deed dated 06.11.1979 at the time of hearing of this petition and further in paragraph No.6 stated to present the sale deed dated 12.07.1979 as well as 20.08.1979 in spite of such statement no sale deed has been produced before the Court by way of filing any affidavit which clearly suggests the intention of the petitioner not to disclose the area of the plot which he has purchased.

15. In cases, where there is a dispute as to encroachment, the fact whether there is such an encroachment or not cannot be determined in the absence of an agreed map. The area of the respondent No.5 has been determined pursuant to the application made by respondent No.5 by the Circle Officer, Chas contained in Annexure-B of the supplementary counter affidavit and so far the petitioner is concerned the petitioner has not approached before the concerned authority for any identification of the land and in view of that the dispute regarding the encroachment cannot be decided in absence of agreed map. No finding regarding encroachment can be reached on oral evidence, the Circle Officer, Chas had done the land demarcation of the respondent No.5 and in view of that the Circle Officer, Chas has not acted illegally and on official duty has passed the said order. In spite of statement made in the writ petition in three of the paragraphs the petitioner herein has not produced the registered deed copy. The question remains

that if such a disputed question of fact is there whether the writ court is competent to pass order under Article 226 of the Constitution of India or not? The answer is flatly "no". If such things have been hidden by the petitioner himself even not approaching the High Court with clean hand that cannot be a subject matter of Article 226 of Constitution of India as the disputed question of fact can only be a subject matter of suit.

16. The scope of judicial review in executive functions concerning public order maintenance is extremely limited - courts should not interfere with orders passed by the Executives under Bharatiya Nagarik Suraksha Sanhita, 2023 unless a concrete case of abuse of power, extraneous considerations, or patent illegality is established. The decision regarding the need and necessity for prohibitory actions must be left to the discretion of administrative authorities entrusted with maintaining law and order, and courts cannot substitute their own views for that of the competent authority. Reference may be made to the judgment of Hon'ble Supreme Court in the case of ***State of Karnataka v. Praveen Bhai Thogadia (Dr.)***, reported in (2004) 4 SCC 684 wherein at paragraph No.6 it has been held as under :-

6. Courts should not normally interfere with matters relating to law and order which is primarily the domain of the administrative authorities concerned. They are by and large the best to assess and to handle the situation depending upon the peculiar needs and necessities within their special knowledge. Their decision may involve to some extent an element of subjectivity on the basis of materials before

them. Past conduct and antecedents of a person or group or an organisation may certainly provide sufficient material or basis for the action contemplated on a reasonable expectation of possible turn of events, which may need to be avoided in public interest and maintenance of law and order. No person, however big he may assume or claim to be, should be allowed, irrespective of the position he may assume or claim to hold in public life, to either act in a manner or make speeches which would destroy secularism recognised by the Constitution of India. Secularism is not to be confused with communal or religious concepts of an individual or a group of persons. It means that the State should have no religion of its own and no one could proclaim to make the State have one such or endeavour to create a theocratic State. Persons belonging to different religions live throughout the length and breadth of the country. Each person, whatever be his religion, must get an assurance from the State that he has the protection of law freely to profess, practise and propagate his religion and freedom of conscience. Otherwise, the rule of law will become replaced by individual perceptions of one's own presumptions of good social order. Therefore, whenever the authorities concerned in charge of law and order find that a person's speeches or actions are likely to trigger communal antagonism and hatred resulting in fissiparous tendencies gaining foothold, undermining and affecting communal harmony, prohibitory orders need necessarily to be passed, to effectively avert such untoward happenings.

17. Further the documents on record clearly establish that Article 226 jurisdiction cannot be used as an appellate forum. "The Court while exercising its jurisdiction under Article 226 is duty bound to consider whether adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved. Further reference may be made to the judgment of Hon'ble Supreme Court in the case of **City and**

Industrial Development Corpn. v. Dosu Aardeshir Bhiwandiwala, Reported in (2009) 1 SCC 168 wherein at

paragraph Nos.29 and 30 it has been held as under :-

29. In our opinion, the High Court while exercising its extraordinary jurisdiction under Article 226 of the Constitution is duty-bound to take all the relevant facts and circumstances into consideration and decide for itself even in the absence of proper affidavits from the State and its instrumentalities as to whether any case at all is made out requiring its interference on the basis of the material made available on record. There is nothing like issuing an ex parte writ of mandamus, order or direction in a public law remedy. Further, while considering the validity of impugned action or inaction the Court will not consider itself restricted to the pleadings of the State but would be free to satisfy itself whether any case as such is made out by a person invoking its extraordinary jurisdiction under Article 226 of the Constitution.

30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to

be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not otherwise entitled to in law.

18. There is no doubt that the High Court sitting under Article 226 of the Constitution of India is competent to pass any order if the order is arbitrary and the authorities have exceeded the jurisdiction, however, what has been discussed here-in-above that is not the case so far the case in hand is concerned.

19. Mr. Sahay, learned senior counsel appearing for the petitioner has relied in the case of ***Deba Jyoti Dutta and Ors. (supra)*** and that matter was arising out of a lease by the sanction of the State Government wherein the petitioner of that case has constructed a house of double story and it was further renewed for 30 years pursuant to the application of renewal filed by the petitioner of that case. In light of Clause 14 of the said lease deed the legal heirs/successors of late Devendra Nath Dutta made an application for renewal of the aforementioned deed lease on or before 20th December, 1977 for a further period of 30 years and the renewal deed was not disposed of and it was pending in that background the said order has been passed by the High Court. It is well settled that any judgment is applicable in the facts and circumstances of each case.

20. What has been discussed here-in-above, the facts of the present case are not identical of ***Deba Jyoti Dutta and Others (supra)*** and in view of that, that case is not helping the petitioner.

21. So far ***Shailendra Kumar Gupta and Anr. (supra)*** relied by Mr. Sahay, learned senior counsel appearing for the petitioner is concerned in that case arbitrarily state has made the public drainage on the land of the petitioner of that case in absence of any land acquisition and without any compensation and in that background the said order has been passed. The facts of the present case are also otherwise, as such that order is also not helping the petitioner.

22. In view of the above facts, reasons and analysis, the Court finds that there is no illegality in the order for maintaining the law and order and it is within the domain of district administration to maintain the law and order and further pursuant to the order of the Co-ordinate Bench, Deputy Commissioner, Bokaro has further enquired into the matter as has been discussed here-in-above. Accordingly, this writ petition is hereby dismissed.

(Sanjay Kumar Dwivedi, J.)

Dated 07.07.2026
Sangam/
A.F.R.