IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A No. 37 of 2024

1. Jhumri Telaiya Nagar Parishad, Jhumri Telaiya, PO & PS-Jhumri Telaiya, District-Koderma
2. The Chief Executive Officer, Jhumri Telaiya Nagar Parishad, Jhumri Telaiya, PO & PS-Jhumri Telaiya, District-Koderma **... … Appellants**

Versus

1.Chintamani Devi, w/o late Balakrishna Prasad, r/o Doctor Gali, PO & PS-Jhumri Telaiya, District-Koderma
2. The State of Jharkhand through the Deputy Commissioner, Koderma, PO, PS & District-Koderma **… ... Respondents**

CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE NAVNEET KUMAR

For the Appellants : Mr. Rajeeva Sharma, Sr. Advocate
Mr. Sunil Kumar Mahto, Advocate
For the State : Mr. Devesh Krishna, SC (Mines)-III
Mrs. Rukmini Kumari, AC to SC (Mines)-III
For the Respondent No.1: Mr. Indrani S. Choudhary, Advocate

26th June 2024

Per, Shree Chandrashekhar, A.C.J

I.A No. 3527 of 2024

This interlocutory application has been filed for condoning the delay of 195 days in preferring L.P.A No. 37 of 2024.

2. After hearing the learned counsel for the appellants and considering the facts and circumstances of this case and also after going through the cause shown in this interlocutory application seeking condonation of delay, we find sufficient grounds to condone the delay of 195 days and, accordingly, I.A No. 3527 of 2024 is allowed.

L.P.A No. 37 of 2024

3. The Jhumri Telaiya Nagar Parishad is aggrieved by the writ Court's decision in W.P.(C) No. 3503 of 2021 passed on 19th July 2023.

4. Before the writ Court, Chintamani Devi raised a grievance against the action of the Nagar Parishad in taking possession of the subject property comprised under Plot No. 68/142 of Khata No. 1/44 in Mouza Belatand (Old Ward No. 7 corresponding new Ward No. 14) within PS

Koderma now Jhumri Telaiya in the district of Koderma. The writ Court found substance in the case pleaded by Chintamani Devi and, therefore, issued a direction to the Nagar Parishad to determine and pay compensation to her under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5. The writ Court held as under:

> "15. It is evident that after passing of the order dated 27.06.2019 in W.P.(C) No. 374 of 2018, the Circle Officer, Koderma has issued rent receipts in favour of the petitioner's husband from the year 1994-95 to 2019-20 and has continued to issue the same for the year 2020-21, 2021-22 and 2022-23 which suggests that the possession of the petitioner/her husband over the said land has been duly acknowledged by the respondent authorities.
> 16. Pursuant to the order dated 16.05.2023 passed in this case, a report was prepared by the Anchal Amin after measuring the said land, a copy of which has been annexed as Annexure-D to the counter affidavit dated 18.07.2023 filed on behalf of the respondent Nos. 1 & 2. On perusal of the said report, it would be evident that entire 8 (eight) Decimals land of the petitioner has been used by the respondent Nos. 1 & 2 for construction of PCC Road, Ghat, installation of Paver Blocks etc. This Court is thus of the view that the respondent-Nagar Parishad has illegally used the said land without payment of due compensation to the petitioner.
> 17. Accordingly, the respondent-Parishad is directed to determine and pay compensation to the petitioner for the said land in terms with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act, 2013 within a period of two months from the date of receipt/production of a copy of this order.
> 18. The present writ petition is accordingly disposed of with the aforesaid direction."

6. Mr. Rajeeva Sharma, the learned senior counsel appearing for the Nagar Parishad submits that in view of the undertaking given by Chintamani Devi in W.P.(C) No. 374 of 2018 the second writ petition was not maintainable before this Court. It is submitted that there are serious inconsistencies in the stand taken by Chintamani Devi as regards her claim of right, title and interest over the subject property.

7. After having examined the materials on record, we do not find any reason to interfere with the writ Court's order and this Letters Patent Appeal is liable to be dismissed at the threshold. The writ Court was entitled to draw an inference of valid right, title and interest of Chintamani Devi over the subject property in view of the registered sale deeds dated 30th March 1951 and 18th June 1980. The continuous peaceful possession of the

vendor of the husband of the writ petitioner has not been disputed by the Nagar Parishad. This is also not in dispute that the husband of writ petitioner was paying rent to the State of Jharkhand and his name was recorded in Register-II by virtue of an order passed in Mutation Case No. 243 (II) of 1994-95. The dispute seems to have been raised by the Nagar Parishad after the husband of writ petitioner died. In the proceeding of W.P.(C) No. 374 of 2018, the Nagar Parishad raised a dispute on the ground that the subject land was recorded Gair Mazarua in the revenue records. No doubt the learned counsel for the writ petitioner had withdrawn the writ petition to enable her to approach the civil Court for adjudication of title, but then, before any adjudication by the civil Court the Nagar Parishad had no jurisdiction to interfere with peaceful possession of the writ petitioner over the subject property. We may also indicate that nature of the land as recorded in the revenue records shall have no bearing on the possession of Chintamani Devi over the subject property. The execution of the registered sale deed on 30th March 1951 shall impute knowledge in the State that ex-landlord was exercising his rights adverse to the rights of the State; if the case pleaded before the writ Court was correct. On the contrary, the Nagar Parishad does not dispute that the subject property was held by ex-landlord and, if that is so, its claim based on a recording in the revenue records was rightly ignored by the writ Court. The Nagar Parishad being an instrumentality of the State of Jharkhand was expected to demonstrate fair play in action. The State or its instrumentalities cannot be permitted to act like a land grabber and take forcible possession of the property belonging to a citizen.

8. For the forgoing reasons, L.P.A No. 37 of 2024 is dismissed.

(Shree Chandrashekhar, A.C.J.)

(Navneet Kumar, J.)

Amit