IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 1495 of 2021

Ashok Kumar Sahay aged about 76 years, son of Late Madheshwar Sahay, Resident of Durga Pathak Road, P.O. and P.S. Medninagar (Daltonganj), District Palamau **… … Petitioner**

Versus

1. The State of Jharkhand through Deputy Commissioner, Palamau, At + PO & PS Medininagar (Daltonganj), District Palamau.
2. Additional Collector, Palamau At + P.O & PS Medininagar (Daltonganj), District Palamau.
3. Khas Mahal Officer, At + P.O & PS Medininagar (Daltonganj). District Palamau.
4. Binod Udaypuri Son of Late Chhatu Lal Udaypuri, resident of Vishnu Mandir Road, P.O & PS Medininagar (Daltonganj). District Palamau.
5. Hari Krishna Sahay Son of Late Brajeshwar Sahay, resident of Mohalla Jail Hata, P.O & P.S Medininagar (Daltonganj), District Palamau.
6. Sawroop Singh Namdhari, aged about 52 years son of Sri Mahendra Singh Namdhari, resident of Near Namdhari Gurudwara at Nawatoli, P.O & P.S Daltonganj (Medininagar) at his commercial shop Bihar Dresses, Vishnu Mandir Road, P.O & PS Medininagar (Daltonganj), District Palamau.

Respondents

7. Amardeep Singh, aged about 51 years, son of Sri Sardar Ajit Singh, resident of Near Ram Mandir, PO & PS Daltonganj (Medininagar). District Palamau, working at his commercial shop, Bihar Electricals, Vishnu Mandir Road, PO & P.S Daltonganj (Medininagar) District - Palamau. **Intervener/ Respondents**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Mr. Rajesh Kumar, Advocate
For the State : None
For the Resp. No. 5 : Mr. Rohit Ranjan Sinha, Advocate

For the Resp. No. 6 & 7 : Mr. L.C. N. Shahdeo, Advocate
: Mr. Yash Raj Gupta, Advocate

15/**28.11.2024** Heard the learned counsel appearing on behalf of the parties.

2. Nobody appears on behalf of the State.

3. This writ petition has been filed for the following reliefs:-

> *"That by way of the instant writ application, the petitioner prays for issuance of writ in the nature of Mandamus commanding upon the Respondent no. 1 to 3 to pass order for mutation and renewal of lease in the name of petitioner over the land of Khas Mahal Holding No. 417 Plot No. 468 area 17.5 Decimal bounded by North Road, South Surajmal Seth, East Chhatulal Udaypuri and west Mohan Sao.* *AND*
> *That by way of instant writ application, the petitioner prays for issuance of an appropriate writ/writs, order/orders, direction/directions seeking quashing of the order dated 13.07.2023 passed by the Respondent No. 3 in Miscellaneous Case no. 04 of 2022-23 whereby and whereunder the Respondent No. 3 has recommended to grant lease in favour of Intervenor.*
> *AND*
> *To stay the operation of the order dated 13.07.2023 passed by the Respondent No. 3 and also stay the further proceeding of the Town Lease Case No. 17 of 2022-23 filed by the intervener for grant of lease on the plot over which application filed by the petitioner for renewal of T.L lease is pending, during pendency of the instant writ application.* *AND/OR*
> *Be pleased to issue such other writ(s)/order(s)/direction(s) which may deem fit and proper in the facts and circumstances of this case for doing conscionable justices to the petitioner.*

4. The learned counsel for the petitioner submits that initially when the writ petition was filed, the application for renewal of lease with respect to the property involved in this case was pending consideration. During the pendency of this writ petition, one application was filed by the son of the writ petitioner bearing Misc. Case No. 4/2022-23 challenging the grant of fresh lease in favour of the intervenor respondent in connection with the same property and the objection of the son of the petitioner has been rejected. Consequently, amendment was filed in the writ petition ; the

amendment was allowed and the order passed in Misc. Case No. 4/2022-23 as contained in Annexure-7 is also under challenge in the present proceedings.

5. The learned counsel has submitted that the lease involved in the present case was of the year 1928 which was for a period of 30 years and an application for renewal was filed in the year 1975-76 which was numbered as Case No. 112 of 1975-76 and since the application for renewal was pending therefore the property could not have been allotted to the intervenors till the application for renewal was rejected. The learned counsel appearing on behalf of the petitioner has also submitted that a suit has been filed in connection with the same property by the petitioner against the interveners and the suit is pending and, in that case, the State is not a party and no relief has been prayed for in the said suit with regard to renewal of lease or with regard to the lease.

6. The learned counsel appearing on behalf of the respondents has opposed the prayer and has submitted that the matter regarding renewal of lease will have a direct bearing in the suit and renewal of lease or grant of fresh lease is dependent upon terms and conditions of the lease and since the lease was not renewed in favour of the petitioner therefore there was no legal impediment in allocating the same property to the private respondent.

7. After hearing the learned counsel for the parties and considering the facts and circumstances of this case, this court finds that the present writ petition essentially arises out of claim of the petitioner with regard to renewal of lease and the grievance of the petitioner in connection with allocation of lease in favour of the intervenor respondent with respect to the same property. The fact also remains that a suit is also pending between the petitioner and the intervenor respondent with respect to the same property. This court is of the considered view that grant of lease/renewal of lease requires adjudication based on various facts with regard to the terms and conditions of the lease and such disputed questions of facts cannot be

adjudicated under writ jurisdiction and the parties would have a remedy through a competent court of civil jurisdiction.

8. Consequently, this writ petition is disposed of with an observation that disputed question of facts cannot be adjudicated in writ jurisdiction particularly when it relates to right, title, interest, possession etc in connection with immovable property. However, it will be opened to the parties to get their remedies through a competent court of civil jurisdiction or as may be available under law.

9. Pending I.A., if any, is closed.

(Anubha Rawat Choudhary, J.)

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