IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (C) No. 668 of 2015

Lagni Mundain, wife of late Arjun Tuti, resident of Sarna Toli, Hatma, P.O. Ranchi University, P.S. Lalpur, Dist. Ranchi

… … Petitioner

Versus

1. The State of Jharkhand
2. The Secretary (Revenue & Land Reforms), Govt. of Jharkhand, Project Building, Dhurwa, P.O. & P.S. Dhurwa, Ranchi
3. Commissioner South Chhotanagpur Division, P.O. Main G.P.O., P.S. Kotwali, Ranchi
4. The Deputy Commissioner, P.O. Main G.P.O., P.S. Kotwali, Ranchi
5. Special Officer, Scheduled Area Regulation, P.O. Main G.P.O., P.S. Kotwali, Ranchi
6. Circle Officer, Nagri, P.O. & P.S. Nagri, Ranchi
7. Babita Singh, wife of Lal Pradeep Kumar Singh, resident of Lal Gutua, P.O. Lal Gutua, P.S. Nagri, District Ranchi **… … Respondents**

With

W.P. (C) No. 124 of 2017

1. Bimla Devi wife of Sri Adya Shankar Pandey, resident of Garhdevi Mohalla, P.O. & P.S. Garhwa, Dist. Garhwa

2. Sangeeta Kumari, wife of Sri Jayendra Narayan Shambhu resident of Sahijama, P.O. & P.S. Garhwa, Dist. Garhwa

3. Gagan Sharma, son of Late Kapildeo Vishwakarma, resident of Dineshwar Nagar, P.O. Harmu, P.S. Argora, Dist. Ranchi

4. Gayanti Singh, wife of Budhi Singh, resident of Rajrappa, Qr. No. BTS S/50, P.O. & P.S. Rajrappa, Dist. Hazaribagh

5. Pradeep Kumar, son of Bhuwaneshwar Prasad, resident of Panchsheel Nagar, P.O. & P.S. Barh, Dist. Ranchi

All presently residing at Daladali Chowk, P.O. Lalgutwa, P.S. Ratu, Dist. Ranchi **… … Petitioners**

Versus

1. The State of Jharkhand
2. The Commissioner, South Chhotanagpur Division, Ranchi having its office at P.O., P.S. and Dist. Ranchi
3. The Deputy Commissioner, Ranchi having its office at P.O. G.P.O., P.S. Kotwali, Dist. Ranchi
4. Special Officer, Scheduled Area Regulation, Ranchi having its office at P.O., P.S. & Dist. Ranchi
5. Lagni Tutti, wife of Late Arjun Munda Tutti, resident of Sarna Toli, P.O. Ranchi University, P.S. Lalpur, Dist. Ranchi

… … Respondents

With

W.P. (C) No. 220 of 2017

Babita Singh, wife of Lal Pradeep Kumar Singh, resident of Lalgutuwa, P.O. Lalgutuwa, P.S. Nagri, District Ranchi, Jharkhand

… … Petitioner

Versus

1. The State of Jharkhand
2. The Commissioner, South Chotanagpur Region, Ranchi, P.O. + P.S. Kotwali, Dist. Ranchi
3. The Deputy Commissioner, Ranchi, P.O. + P.S. Kotwali, Dist. Ranchi
4. The Special Officer, SAR, Civil Area Regulation, Ranchi, P.O. + P.S. Kotwali, Dist. Ranchi
5. Smt. Lagni Tutti, wife of Late Arjun Munda Tooti, resident of Sarna Toli, P.O. Ranchi University, P.S. Lalpur, Dist. Ranchi, Jharkhand

… … Respondents

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner(s) : Mr. Manjul Prasad, Sr. Advocate
Mr. Akhouri Prakhar Sinha, Adv.
Mr. Aniket Rohan, Advocate
[in WPC No. 220 of 2017]

	: Mr. K. K. Ambastha, Advocate Mr. Suraj Verma, Advocate Mr. Shashank Shekhar, Advocate **[in WPC No. 668 of 2015]**
	: Mr. Rahul Kumar Gupta, Advocate Mr. Sanjay Kr. Tiwary, Advocate Ms. Swati Singh, Advocate
For the Resp. No. 7	: Mr. Manjul Prasad, Sr. Advocate Mr. Akhouri Prakhar Sinha, Adv. Mr. Aniket Rohan, Advocate **[in WPC No. 668 of 2015]**
For the Resp. No. 5	: Mr. K. K. Ambastha, Advocate Mr. Suraj Verma, Advocate Mr. Shashank Shekhar, Advocate **[WPC No. 124 of 2017 & 220/2017]**
For the State	: Mr. Rakesh Ranjan, Advocate **[WPC No. 124 of 2017]**

Reserved on 06.03.2025 **Pronounced on 25.07.2025**

1. This batch of writ petitions arise out of common order passed in S.A.R. Case No. 482 of 2007-08 against which SAR Appeal No. 111(R) 15 of 2012-13 was dismissed and then SAR Revision No. 02/2015 and 03/2015 were also dismissed. **W.P. (C) No. 668 of 2015** was filed during the pendency of the revision petitions alleging that the S.A.R. officer had *suo moto* stayed the execution of order of restoration passed in S.A.R. Case No. 482 of 2007-08 without there being any order of stay from the competent authority. However, during the pendency of the aforesaid writ petition, the revision petitions were dismissed and the persons against whom the order of eviction was passed under section 71A of Chota Nagpur Tenancy Act, 1908 ***(hereinafter referred as to the "CNT Act")*** and they have filed the other two writ petitions being **W.P.(C) No.124 of 2017 and W.P.(C) No. 220 of 2017** in which order of status quo in connection with their dispossession has been passed by this Court and these cases were tagged and remained pending before this Court.

2. In W.P.(C) No.124 of 2017, the order of status quo was passed on 13.01.2017 and in W.P.(C) No.220 of 2017, the order of status quo was passed on 17.01.2017.

3. The petitioner in W.P. (C) No. 668 of 2015 is the private respondent in W.P.(C) No.124 of 2017 and W.P.(C) No.220 of 2017, whose predecessor in interest was the applicant in petition seeking restoration of land under section 71A of C.N.T Act, 1908 ***(hereinafter referred to as the "applicant")***

4. **W.P. (C) No. 668 of 2015** has been filed for the following reliefs: -

> *"for issuance of an appropriate writ, rule, order, direction for quashing the order contained in letter no. 02 (ii) dated 22.01.2015 passed by the Special Officer, Scheduled Areas Regulation, Ranchi in S.A.R. Case No. 482 of 2007-08 (Annexure-4) by which the Respondent No. 5 has illegally passed an order directing the Circle Officer, Nagri, Ranchi to stay the delivery of possession with respect to the land 0.82 Acres of land comprised within Plot No. 111 of Khata No. 116 situated at Mauza Gutua, P.S. Nagri, District Ranchi although order has been passed for restoration of the aforementioned lands in favour of the petitioner under Section 71 (A) of the C.N.T. Act by the Special Officer, S.A.R., Ranchi in SAR Case No. 482 of 2007-08 and the same has been affirmed by the Learned Deputy Commissioner, Ranchi in SAR Appeal No. 111(R) 15 of 2012-13 and notice was issued by the Circle Officer for effecting delivery of possession in favour of the Petitioner with respect to the aforementioned land on 22.01.2015 but the Respondent No. 6 in arbitrary and colourable exercise of power has illegally passed an order staying the delivery of possession without any order of the competent authority flouting the order passed by the superior authority showing undue favour to Respondent No. 7 and for such other relief or reliefs to which the Petitioner is legally entitled to."*

5. **W.P. (C) No. 124 of 2017** has been filed for the following reliefs: -

> *"a. For issuance of an appropriate writ/writs, order/orders, direction/directions or writ in the nature of certiorari for quashing of the order dated 14.12.2016 passed by the Commissioner, South Chhotanagpur Division, Ranchi in SAR Revision No. 2/2015 and SAR Revision No. 3/2015 whereby and where under the revision application filed against the order dated 11.06.2014 passed by Learned Deputy Commissioner, Ranchi in SAR Appeal No. 111 R 15/2012-13 has been dismissed and order dated 11.06.2014 passed by Learned Deputy Commissioner, Ranchi in SAR Appeal No. 111 R 15/2012-13 upholding the order of the learned Special Officer, SAR, Ranchi in SAR Case No. 482/2007-08 for restoration of the land appertaining to Khata No. 116, Plot No. 111 admeasuring 0.82 acre situated at Gutuwa, P.S. Nagri, Dist. Ranchi has been upheld."*

6. **W.P. (C) No. 220 of 2017** has been filed for the following reliefs: -

> *"(a) In the nature of certiorari for quashing the order dated 14.12.2016 passed in Ranchi SAR Revision No. 02/2015 by respondent No. 2, whereby and whereunder, the order dated 11.6.2014 passed by respondent No. 3 in SAR Appeal No. 111 R 15/2013-13 and order dated 4.6.2012 passed in SAR Case No. 482/2007-08, rejected with respect to the restoration of the land of Khata No. 116, Plot No. 111 having an area of 29.41 decimals of the petitioner, have been directed to be restored to respondent No. 5, which is absolutely illegal."*

Arguments on behalf of the successor of the applicant for restoration of land under Section 71A of the C.N.T. Act, 1908 — the writ petitioner in W.P. (C) No. 668 of 2015 and the private respondent in W.P.(C) Nos. 124 of 2017 and 220 of 2017.

7. Learned counsel for the ***Applicant,*** who is petitioner in **W.P.(C) No. 668 of 2015** has submitted that this writ petition has been filed in view of the fact that in spite of order of restoration passed under Section

71-A of the CNT Act in favour of the petitioner, the Special Officer, Scheduled Area Regulation, Ranchi has himself stayed its execution without there being any stay order from the competent court of law. The learned counsel submits that such a course was absolutely impermissible in the eyes of law and therefore the conduct of the Special Officer is under cloud. The learned counsel has further submitted that the application for restoration of land was allowed by the SAR Court and the appeal against the SAR Court's order was dismissed and the revision was pending at that point of time, but no order of stay was passed.

8. The learned counsel has further submitted that the application for restoration was allowed by the SAR Court and the appeal against the SAR Court's order was dismissed and ultimately the revisions were also dismissed and only the revisional order is under challenge in W.P. (C) No. 124 of 2017 and W.P. (C) No. 220 of 2017 which have been filed by the persons who are in possession of the property and there is no specific challenge to the order of restoration passed in S.A.R. Case No. 482 of 2007-08 nor there is any specific challenge to the order of the appellate authority dismissing the appeal and therefore no relief can be granted to the petitioners in W.P.(C) No.124 of 2017 and W.P. (C) No. 220 of 2017 ***(hereinafter referred to as the writ petitioners).*** It has been submitted that there is no illegality or perversity in the impugned order passed by the learned Commissioner dismissing the revision petitions.

9. The learned counsel for the ***Applicant*** has also submitted that the entire property has been transferred to third party so far as the property involved in W.P. (C) No. 220 of 2017 is concerned, but the petitioner of W.P. (C) No. 220 of 2017 has not disclosed this fact in the writ petition. This amounts to material suppression before this Court. He submits that once third-party rights have already been created, the petitioner of W.P.(C) No. 220 of 2017 does not have any locus to file the writ petition and therefore the writ petition being W.P. (C) No. 220 of 2017 should be

dismissed by imposing heavy cost on account of suppression of material facts.

Argument of the writ petitioners in W.P.(C) No. 124 of 2017 and W.P.(C) No. 220 of 2017

10. Learned counsel appearing on behalf of the petitioner in W.P. (C) No. 124 of 2017 and also in W.P. (C) No. 220 of 2017 has submitted that the applicant or his predecessor in interest remained dispossessed from the property for a pretty long period of time and the applicant has rightly not disclosed the date of dispossession as he was not aware of it. The learned counsel has also submitted that Bhuglu Oraon had earlier instituted a case for restoration of the land under Section 71-A of the CNT Act as back as in the year 1985-86 being S.A.R. Case No. 14/1985-86 against Shri H. N. Singh which was allowed vide order dated 23.09.1986, but he never instituted any execution case and the execution stood barred by virtue of Section 181 of the CNT Act which provides a limitation of three years for filing an application for restoration. Section 181 of CNT Act is quoted as under: -

> *"181. Limitation of time for application for execution. – No application for the execution of a decree or order passed by the Deputy Commissioner under this Act shall be entertained unless such application be made] within three years from, -*
> *(a) the date on which the decree or order is signed, or*
> *(b) where there has been an appeal, the date of the final decree or order of the appellate Court, or*
> *(c) where there has been a review of judgment, the date of the decision on the review."*

11. It has also been stated that Bhuglu Oraon again filed SAR Case No.03 of 1999, but no positive order of restoration was passed in the said case in view of the fact that there was already an order of restoration way back on 23.09.1986. Thereafter, Arjun Munda purchased the property from Bhuglu Oraon after taking permission under Section 46 of the CNT

Act from the Deputy Commissioner and after purchasing the property, Arjun Munda filed another application for restoration which is subject matter of consideration in the present case.

12. The facts of the case revealed that Arjun Munda though purchased the property, but neither he nor his predecessor in interest remained in possession of the property and consequently the date of dispossession with respect to the property dates back to the period much prior to the compromise decree and even if the date of compromise is taken as date of dispossession, then also application for restoration filed by Arjun Munda was filed much after expiry of more than 34 years. The learned counsel has submitted that though there is no period of limitation prescribed under Section 71-A of the CNT Act but the term *'at any time'* has been interpreted by the Hon'ble Supreme Court and *'any time'* does not mean that at the sweet will of the concerned raiyat. For this, the learned counsel has relied upon the judgment passed by the Hon'ble Supreme Court in the case of ***Situ Sahu & Others vs. State of Jharkhand & Others*** reported in ***2004 (4) JCR 211 (SC) and Pandey Oraon vs. Ram Chander Sahu & others*** reported in ***AIR 1992 SC 195***.

13. The learned counsel has also submitted that merely because the property involved in W.P. (C) No.220 of 2017 has been transferred, the same does not take away the locus of the petitioner to challenge the order which have been passed against the petitioner as the petitioner could not have passed better title than what the petitioner was having. He has relied upon the judgment passed by the Hon'ble Supreme Court reported in ***(2001) 6 SCC 534 (Dhurandhar Prasad Singh vs. Jai Prakash University & others)*** and he submits that merely because the property has been transferred to the third party, at best the third party could have joined the proceedings, but the same cannot be said to be a reason to deny the locus of the petitioner to pursue the litigation. He submits that the order of restoration of land was passed while the petitioners of W.P.(C) No. 220 of 2017 and W.P.(C) No.124 of 2017 were in possession of their respective

property. It is submitted that the vendor is under a duty to protect the interest with respect to the property which he has transferred as the vendor cannot transfer a better title than what he possesses.

14. The learned counsel for the petitioners has submitted that in absence of any allegation of fraud, there cannot be any presumption of fraud merely because there was a compromise decree. He has submitted that Section 3 of the Bihar Scheduled Areas Regulation, 1969 simply provides that even in case of admission or any act of the schedule tribe, the same cannot be taken as a gospel truth and mere admission is not sufficient and the Deputy Commissioner can certainly call upon the parties to prove the material facts although it might have been admitted. Section 3 of the Bihar Scheduled Area Regulation, 1969 is quoted as under:

> "*3. Powers of Court to ignore admission by member of the Scheduled Tribes.—Notwithstanding anything to the contrary contained in any other law for the time being in force, the Court shall, in any suit or proceeding relating to the transfer of land of a member of the Scheduled Tribes as specified in Part III to the Schedule to the Constitution (Scheduled Tribes) Order, 1950, require any fact expressly or impliedly admitted by such person to be proved otherwise than by mere admission and the Deputy Commissioner may also produce evidence in rebuttal."*

The compromise was prior to coming into force of the Bihar Scheduled Area Regulation, 1969. The learned counsel has also submitted that since Arjun Munda never came in possession, therefore there was no question of his dispossession.

Argument of the State.

15. The learned counsel for the State in W.P.(C) No. 124 of 2017 has produced the concerned records of the case and submitted that common

impugned order of W.P.(C) No. 124 of 2017 and W.P.(C) No. 220 of 2017 does not call for any interference.

16. A specific stand has been taken by the learned counsel for the State in W.P. (C) No. 668 of 2015 that in paragraph 7 of the counter affidavit, the State has taken a ground that a revision being S.A.R. Revision No.02/2015 has been preferred by Babita Singh, before the learned Commissioner and as such the Deputy Commissioner sent a letter to the S.A.R. Officer for necessary action.

Rejoinder of the *Applicant*

17. ***In response***, the learned counsel for the ***Applicant,*** has referred to the Bihar Scheduled Area Regulation, 1969 Appendix IX Section 3 to submit that the compromise by itself is a fraud on the statute.

Findings of this Court

W.P.(C) No. 668 of 2015

18. In this writ petition, the grievance of the applicant is that without there being any stay order by the learned Commissioner, the S.A.R. Officer, Ranchi has *suo moto* stayed the execution of the order of restoration of land vide impugned order dated 22.01.2015. The perusal of the order 22.01.2015 reveals that a petition was filed by Babita Singh, wife of Lal Pradip Kumar Singh, informing that a revision petition was filed and the matter was pending and had also filed a petition before the Deputy Commissioner and the Deputy Commissioner had directed the Circle Officer to take appropriate steps. The impugned order also reveals that a copy of the revision petition was also filed before the Circle Officer and a prayer was made before the Circle Officer not to give effect to the process of ‘dakhal dihani’ for the present and on the basis of the pendency of the revision case, it was directed that the proceedings of ‘dakhal dihani’ be kept in abeyance for the present.

19. The respondent State has also explained the position that the process of ‘dakhal dihani’ for that point of time as they were informed that revision petition was filed and it was pending and it was duly

communicated by the Deputy Commissioner. This Court is of the view that no malice as such can be attributed in the aforesaid facts and circumstances on the concerned respondent.

20. The records of the revision case reveal that subsequently, an order of status quo was passed at the instance of the writ petitioner of W.P. (C) No. 668 of 2015 herself, and following order was passed on 27.10.2015 by the learned Commissioner, which is quoted as under:

> *"A petition on behalf of the O.P. (Smt. Lagni Tuti) has been filed for maintaining status quo.*
>
> *Issue instruction to S.S.P., Ranchi to stop construction and maintain status quo till disposal of the case in this court."*

21. The fact also remains that during the pendency of the writ petition before this Court challenging the order of the learned Commissioner dismissing the Revision Case No. 2 of 2015 and 3 of 2015, orders of status quo have been passed. In view of the aforesaid facts and circumstances, this Court is of the view that at this stage, no useful purpose will be served by quashing the order dated 22.01.2015 which is the order impugned in W.P.(C) No. 668 of 2015 and it is suffice to observe that the final order to be passed in W.P.(C) No.124 of 2017 and W.P. (C) No. 220 of 2017 would govern the respective parties of the case.

22. ***W.P. (C) No. 668 of 2015 is accordingly disposed of.***

W.P.(C) No. 124 of 2017 and W.P.(C) No. 220 of 2017

23. W.P.(C) No. 124 of 2017 and W.P.(C) No. 220 of 2017 arise out of common impugned orders passed by the learned Special Officer, Scheduled Area Regulation, Ranchi on 04.06.2012 in S.A.R. Case No. 482 of 2007-08; the order passed by the learned Deputy Commissioner, Ranchi in S.A.R. Appeal No. 111R15/2012-13 dated 11.06.2014; and the order passed by the learned Commissioner, South Chotanagpur Division, Ranchi in S.A.R. Revision Nos. 2 and 3 of 2015 dated 14.12.2016. As the facts in both writ petitions are identical, the arguments have been advanced from the records of W.P.(C) No. 124 of 2017.

24. It is not in dispute that the property involved in this case, that is, the land under Khata No.116, Plot No.111 of village Gutuwa was recorded in the revisional survey records in the name of Bhada Oraon @ Kaimi and after his death, it was inherited by his only son namely Bhaglu Oroan.

25. Bhaglu Oroan sold the property to one Arjun Munda (husband of the applicant) vide registered sale deed no.5751 dated 26.04.1990 after obtaining permission from the Deputy Commissioner. Thereafter, Arjun Munda filed an application seeking restoration of land under section 71 A of the CNT Act, 1908 on 25.01.2008. It has been recorded in the order dated 06.03.2025 by which the judgement was reserved, that no foundational details with regards to the date of dispossession or the manner of dispossession has been given in the prescribed application seeking restoration of land. The paragraphs 3,4 and 5 of the aforesaid order is quoted as under: -

> *"3. During the course of hearing and as per the records produced from the SAR Court, it transpired that in the application for restoration filed by Arjun Munda dated 25.01.2008 pursuant to which the concerned proceedings are arising, under the column 'the date of dispossession', it has been written 'he does not know' and under the column 'as to whether the transfer has taken place through registered deed, mortgaged, lease etc.' he has again written 'he does not know'. The application for restoration has been perused by all the learned counsel appearing on behalf of the parties. The original copy of the application for restoration has been produced by the learned counsel for the State.*
>
> *4. Learned counsel for the State is directed to submit the records before this Court for further scrutiny and perusal. However, the aforesaid facts which have been mentioned herein is not in dispute.*

5. The learned counsel for the parties has been specifically asked as to whether there is any material to show the date of dispossession or the manner in which Arjun Munda has been dispossessed from the property apart from the application filed by the Arjun Munda, they have submitted that there is no other material. However, it has been submitted that there was a compromise way back in the year 1963 wherein the title suit ended into a compromise."

26. The specific case of the petitioners is that Bhaglu Oroan transferred the land to Birendra Prasad Singh and Hridya Nand Singh, both sons of Jitan Singh in the year 1946 upon consideration amount of Rs.3280/- and they came in peaceful possession of the same. It is their further case that when their peaceful possession was sought to be questioned, they filed a suit before the Munsif, Ranchi bearing Suit No.273 of 1963 seeking declaration of their title in which Bhaglu Oroan was the sole defendant. However, the said suit ended in a compromise. The decree in the suit has been annexed as Annexure – 1 which refers to Khewat No.2, R.S. Khata No.116, R.S. Plot No.111 Village Gutwa area 82 decimals. It is their further case that Birendra Prasad Singh and Hridya Nand Singh transferred the land in question to Jhanjhari Kunwar @ Sanjhari Kunwar vide registered sale deed no.5761 dated 26.08.1963 (Annexure – 2) and pursuant there to Sanjhari Kunwar came in peaceful possession and the land was mutated in her name and she paid rent and rent receipt was issued by the competent authority. The petitioners purchased different portions of the property whose details are as under:

Petitioner No.1	3 decimals of land of plot no.111	Sale deed no.3667 dated 13.03.2006
Petitioner No.2	6 decimals of land of plot no.111	Sale deed no.3665 dated 13.03.2006
Petitioner No.3	9 decimals of land of plot no.111	Sale deed no.3663 dated 13.03.2006

Petitioner No.4	6 decimals of land of plot no.111	Sale deed no.3666 dated 13.03.2006
Petitioner No.5	6 ½ decimals of land	Sale deed no.14737 dated 17.12.2004
Petitioner of **(W.P.(C) No. 220 of 2017)**	29.41 decimals of land of plot no.111	Sale deed no.3664 dated 13.03.2006 (Annexure – A to the counter affidavit dated 31.01.2017 filed on behalf of respondent no.5)

27. It is the case of the petitioners that they have purchased land under Khata no.116, plot no.111 of village Gutuwa vide registered sale deed bearing nos.3667, 3665, 3666, 3663 dated 13.03.2006 from Sanjhari Kunwar and subsequently the petitioner no.5 namely Pradeep Kumar had purchased the land of Chandrasheela Kumari, who in turn had purchased the land from Sanjhari Kunwar. They all claimed that their names have been mutated and they are in possession of the property and have been paying rent and a few rent receipts have been annexed and they claim that they have purchased the land with building and have remained in continuous possession.

28. It is the case of the petitioners that as back as in the year 1985-86, Bhaglu Oraon had instituted SAR Case No.14 of 1985-86 against Hridya Nand Singh for restoration of land of 0.82 acres under Section 71A of Chota Nagpur Act, which was allowed on 23.09.1986 but the order of restoration could not be effected because the land was in possession of Jhanjhari Kunwar @ Sanjhari Kunwar as Birendra Prasad Singh and Hridya Nand Singh had earlier transferred the land to Jhanjhari Kunwar @ Sanjhari Kunwar vide registered sale deed no.5761 dated 26.08.1963 and consequently the SAR Case which was filed against Hridya Nand Singh for restoration of land as SAR Case No.14 of 1985 – 86 was filed against wrong person. Consequently, the order of restoration dated 23.09.1986 could not be given effect to. However, Bhaglu Oroan after

expiry of 13 years filed another case being SAR Case No.3 of 1999 and the said case was dismissed.

29. In the meantime, and prior to filing of SAR Case No.3 of 1999, Bhaglu Oroan sold the property to one Arjun Munda (husband of the applicant) vide registered sale deed no.5751 dated 26.04.1990 after obtaining permission from the Deputy Commissioner. It has been stated by the petitioners that the permission was obtained to sell the land after supressing the material facts that the land which belonged to "Oraon" was sought to be transferred to person of another caste namely "Munda". Thereafter, Arjun Munda after expiry of 17 to 18 years from the date of purchase, filed two separate proceedings under Section 71A of CNT Act seeking restoration of the land on the strength of the registered sale deed no.5751 dated 26.04.1990 which was treated as SAR Case No.482 of 2007-08 and 499 of 2008-09. It has also been pointed out by the petitioners in the writ petition that in the meantime, the government had also acquired portion of the land and house vide land Acquisition Case No.33 of 2005 and in the year 2008-09, award was also prepared and compensation thereto was also paid in favour of the petitioners. A copy of the order passed in LA Case No.33 of 2005 has been annexed as Annexure – 6 to the writ petition. However, SAR Case No.482 of 2007-08 which is subject matter of consideration in W.P.(C). No.124 of 2017 and W.P. (C) No. 220 of 2017 was allowed vide order dated 04.06.2012 which is Annexure – 7 to the writ petition.

30. The perusal of order dated 04.06.2012 reveals that the petition was filed by Arjun Munda in connection with Khata No.116 plot no.111 area 4.20 acres against Chandrashila Kumari, Pradeep Kumar Lal, Babita Singh and Shanti Singh. The SAR Officer observed that the property was recorded in the name of Madi Oraon, son of Bhaglu Oroan and also recorded that khatiyani raiyat obtained permission under Section 46 of the CNT Act and sold the property being Khata No.116, plot no.111 area 82 decimals, plot no.785 area 73 decimals, plot no.807 area 56 decimals, plot

no.822 area 17 decimals, plot no.833 area 86 decimals total 3.14 acres through registered sale deed to Arjun Munda and observed that the property was the raiyati property of Arjun Munda, who was in possession of the property. It was also observed that the petitioners have forcefully dispossessed Arjun Munda of his raiyati property and therefore Arjun Munda had filed the petition for restoration of possession. While referring to the show cause filed by the petitioners, SAR Officer observed that the suit property was obtained by Birendra Prasad Singh and Hridya Nand Singh through compromise in Title Suit No.273 of 1963 with respect to 82 decimals of property and also referred to the aforesaid sale deeds which were filed by the petitioners and also that the property was mutated in their name. The point of limitation was also raised by the petitioners. It was also recorded that the original applicant Arjun Munda had expired on 10.04.2010 and consequently in his name, his wife and children were made party.

31. The SAR officer heard both the parties and observed that the compromise decree has no legal sanctity which cannot be recognized under Section 71A of CNT Act and the manner in which the petitioners had obtained possession was in violation of Section 48 of CNT Act. The authority also rejected that the purchaser of the property namely Arjun Munda could not have filed a petition under Section 71A of CNT Act by observing that due permission was granted under Section 46 of the CNT Act for sale of property and ultimately passed an order of restoration in favour of the applicants.

32. The perusal of the order dated 04.06.2012 reveals that although the point of limitation was raised but the authority has not considered the point of limitation/delay and laches at all. The authority had also not considered that the suit was filed by Birendra Prasad Singh and Hridya Nand Singh seeking declaration of the title, but it was this suit which entered into compromise and thereafter there has been numerous sale deeds with respect to the property involved in this case. The reply filed by

the petitioners before the learned SAR Officer reveal that the following 3 (three) points of law were raised by the petitioners before the SAR Officer and the judgments were also referred to but none of those points were considered or even recorded in the order passed by the learned SAR Officer.

> *"A. Present Restoration Application has been filed after the lapse of about 50 years which is hopelessly barred by the law of limitation perfecting the title of the opposite parties adversely to the recorded tenant and the persons claiming through or under him (vide the photo copy of the judgment of the Hon'ble High Court, Jharkhand reported in JCR 2009 P.343).*
>
> *B. The applicant is not the original recorded tenant and he is purchaser (transferee) of the lands in dispute and as per decision reported in JCR 2010, P. 427 the benefit of 71-A of the C.N.T. Act, 1908 cannot be provided to the applicant who has recourse, if any, before the Civil Court of Competent Jurisdiction.*
>
> *C. The applicant and the transferer U/s 46 of the C.N.T. Act 1908 are residing under two police stations separately. The land and the transferer is situated and resident at Ratu P.S. (as then) Now Nagri P.S. Ranchi whereas the applicant is resident of Sarna Toli, Hatma village within Lalpur P.S. Ranchi."*

33. The application filed for restoration of land by Arjun Munda reveals that he has neither given any date of dispossession nor given any mode of dispossession or manner of dispossession and with respect to the structure over the land, he had mentioned that there was a partly constructed building on the property. With respect to the affidavit annexed with the application, he mentioned that he has acquired the land by virtue of registered sale deed dated 19.05.1990 executed by Bhaglu Oroan, son of Bhada Oraon and the land has fraudulently in contravention of Section 46

of the Chota Nagpur Tenancy Act been taken by the opposite party and he has also mentioned that he had not filed any SAR case earlier.

34. The petitioners being aggrieved by the order passed by the SAR Officer filed appeal which was numbered as SAR Appeal No.111 R15/2012-13. The perusal of the appellate order reveals that on the day when the case was taken up, the appellants did not turn up for hearing and it has been recorded that sufficient opportunity was given to them for hearing and ultimately the case was heard in absence of the appellants. In the absence of the petitioners, the learned appellate court, only recorded the submission of the respondent (***applicant here-the wife of the original applicant Arjun Munda***) and the appeal was dismissed on merits without even recording the case of the appellants, who are the petitioners before this Court.

35. The matter was taken up in revision by the petitioners which was numbered as S.A.R Revision No.2 of 2015 and S.A.R Revision No. 3 of 2015 wherein numerous grounds were taken. It was also raised that the ***Applicant*** had claimed that Bhaglu Oraon had instituted S.A.R Case No.14 of 1985-86 for restoration of 82 decimals of plot no.111 in which the order of restoration was passed on 23.09.1986 and it was claimed by the applicant that delivery of possession was effected by the Circle Officer, Ranchi in favour of Bhaglu Oraon and then the ***Applicant*** Arjun Munda purchased the land from Bhaglu Oroan by virtue of registered sale deed no.5751 dated 26.04.1990. These facts were disputed by the petitioners before the revisional authority by raising number of points and it was also alleged that the order of the SAR Officer was obtained by supressing materials facts. It was also asserted that the petitioners were in possession of the property over the land since more than 50 years i.e. since 1946 and neither the applicant nor their predecessor in interest were in possession of the land since much before enactment and enforcement of Bihar Schedule Area Regulation Act, 1969 whereby new Section 71-A was instituted in the CNT Act. Reference was also made to the

judgements passed by the Hon'ble Supreme Court that the application for restoration of land after passing of reasonable period was itself not maintainable. The impugned order passed by the revisional authority i.e. the learned Commissioner, recorded the submissions of the parties and jumped at the finding without dealing with the specific points raised by the parties particularly the arguments of the petitioners and recorded that the compromise decree in Title Suit No.273 of 1963 was collusive. It is important to note that the compromise in the suit was between the father of the vendor of *Applicant*, namely, Bhuglu Oraon and the predecessor in interest of the petitioners and dismissed the revision applications. The finding of the Commissioner is quoted as under: -

> *"On going through arguments of both the parties and on perusal of record, it appears that, the respondent claim the land on the basis of transfer made through collusive decree and since, any transfer made on the basis of collusive decree attracts Section 71A of the CNT Act and no permission under the provisions of CNT Act has been obtained by the predecessor in interest of the present petitioner, hence I find that, the predecessor in interest have fraudulently acquired the land in question in contravention of the provisions of CNT Act and the land in question was rightly restored in favour of the respondents by the learned courts below.*
> *Hence for the reasons aforementioned, this appeal is dismissed and impugned order passed by the learned courts below are hereby upheld and the land is ordered to be restored in favour of the respondent."*

36. This Court finds that numerous points were argued before the learned revisional court, but none of the points were taken into consideration by the revisional authority, and therefore, the impugned order passed by the learned Commissioner is non-speaking and suffers from non-consideration of many legal and factual points, which were raised by the petitioners before the authority. The Commissioner has also not taken into consideration the various judgements relied upon by the parties.

37. It is important to note that no record of dakhal-dehani undertaken by the Circle Officer in execution of the order of S.A.R. Officer passed in earlier S.A.R. case has been placed on record and thus the date of possession of Arjun Munda or date of possession of his predecessor in interest has not been placed on record and it was the case of the petitioners that original applicant -Arjun Munda and/or their predecessor and were never put in possession. There is serious dispute as to whether original applicant -Arjun Munda and /or his predecessor in interest was ever put in possession of the property. Objections have also been raised as to how the property belonging to Oraon tribe could be transferred to a person belonging to Munda tribe that too to a person belonging to a different police station. It is important to note that the date of possession/dispossession and also the mode of possession/dispossession have important bearing in the matter. In this connection, the previous orders passed in SAR cases for restoration of the land involved in this case filed by the vendor of applicant Arjun Munda and/or predecessor in interest of the vendor against or in favour of the petitioners/predecessor in interest of the petitioners and also the execution of such orders, if any, are also required to be considered. Although in the initial application as perused by this Court and also by the learned counsel for the parties, no specific statement has been made by Arjun Munda regarding the date and manner of dispossession but before the authorities much was argued by both the parties, but no clear finding has been recorded with regards to the date and manner of possession/dispossession of Arjun Munda from the disputed property. The records received from the office of the Commissioner reveals that the records which have been submitted before this Court by the respondent State were not produced for perusal and consideration as a result of which the Commissioner in the impugned order has straight away reached at the conclusion after recording the arguments of the respective parties without deliberating upon the points raised by the parties and without considering the judgements relied upon

by them in the revision petition and also during the course of arguments. The impugned order passed by the learned Commissioner is non speaking on many aspects of the matter, both factual and legal which has seriously prejudiced the cause of justice and hence the impugned order calls for interference.

38. In W.P. (C) No. 220 of 2017, it has come to light that the writ petitioner has transferred her property through registered sale deed to third party and since the law is well settled that any person cannot pass on better title than what he has and any transfer made during the pendency of a case is governed by the principles of *lis pendens* and the vendor certainly has a right to continue with the litigation. This Court is of the considered view that merely because the writ petitioner of W.P. (C) No. 220 of 2017 did not disclose about the transfer of property, the same cannot be a reason to dismiss the writ petition particularly when the order of restoration of land was passed against the writ petitioner.

39. In view of the aforesaid discussions, the impugned order passed in SAR Revision No.2 of 2015 and SAR Revision No.3 of 2015 dated 14.12.2016 passed by the Revisional Authority (Commissioner, South Chotanagpur Division) is set aside.

40. The matter is remanded back to the learned Commissioner for fresh consideration and passing of fresh order in accordance with law after giving opportunity of hearing to the petitioners/respondents/applicant and upon considering the materials on record which have been placed before this Court by the respondent and further material, if any, as may be available with the respondent authorities with respect to the property involved in this case. If one or the other party files any application for calling for one or the other records relating to the property involved in this case, appropriate order be passed depending upon the relevance of such record. Considering the nature of the dispute involved in this case, the parties may also seek liberty to file written submissions before the learned

Commissioner, so that all matters of fact and law are duly addressed while passing the fresh order.

41. Let the records submitted by the learned counsel for the respondent be handed over back to the learned counsel and the concerned authority shall place the records before the learned Commissioner for consideration.

42. The parties to appear before the learned Commissioner on 08.09.2025 at 11.00 am and fresh reasoned order after due opportunity of hearing and in the light of the discussions made above be passed within a period of 6 months from the date of appearance.

43. The parties to maintain status-quo with respect to the property till 08.09.2025.

(Anubha Rawat Choudhary, J.)

Saurav/