2026:JHHC:26930-DB

IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No. 202 of 2025

Binodi Bedia, son of Late Bahura Bedia, resident of Village-Gutuwa, P.O. & P.S.- Patratu, District- Ramgarh

... ... Appellant

Versus

1. The State of Jharkhand
2. The Commissioner, North Chotanagpur Division, Hazaribagh
3. The Deputy Commissioner, Ramgarh
4. The Additional Collector, Ramgarh
5. The Land Reforms Deputy Collector, Ramgarh
6. The Circle Officer, Patratu, District- Ramgarh
7. Niyaz Ahmad, son of Late Miyan Jan Miyan, resident of Village- Hehal, P.O. & P.S.- Patratu, District- Ramgarh
8. Kabulan Nisha, wife of Late Barik Ansari, daughter of Late Miyan Jan Miyan, resident of Village-Purabdih, P.O. & P.S.- Gola, District- Ramgarh
9. Zubeda, wife of Late Sikandar Ansari, daughter of Late Miyan Jan Miyan, resident of Village- Sosokala, P.O.- Soso, P.S.- Gola, District- Ramgarh
10. Sarazun Nisha, wife of Late Anwar Hussain, daughter of Late Miyan Jan Miyan, resident of Village & P.O.- Saharia, P.S.- Vendra, District- Bokaro
11. Ayasa, wife of Mubarak Ansari, resident of Village & P.O.- Sultana, P.S.- Katkamsandi, District- Hazaribagh

.... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellant : Mr. Manoj Kumar Choubey, Advocate
For the Resp. Nos. 1 to 6 : Mr. Yogesh Modi, A.C. to A.A.G.-IA
Ms. Ruchi Mukhi, A.C. to A.A.G.-IA
For the Resp. Nos. 7 to 11 : Mr. Sandeep Verma, Advocate
Mr. Shadab Bin Haque, Advocate
Mr. Aaryamann Relan, Advocate

Order No.-04 **Dated: 07.09.2026**

Per : Rajesh Shankar, J. :

1. The present Letters Patent Appeal is directed against the order dated 16.07.2024 passed by the learned Single Judge in W.P.(C) No. 3137 of 2008 whereby the said writ petition filed by Miyan Jan Miyan (now

deceased) (hereinafter to be referred as "the original writ petitioner") has been disposed of by setting aside the part of the order dated 29.04.2008 passed by the Commissioner, North Chotanagpur Division, Hazaribag (the respondent no. 2) in Hazaribag Land Restoration (C.N.T.) Revision Case No. 12 of 2006.

2. The facts of the case as stated in the writ petition is that one Mahmadi Miya-the predecessor-in-interest of the original writ petitioner had purchased the land appertaining to Khata No. 15, Plot No. 41 measuring an area of 2.89 acres and the land appertaining to Khata No. 77, Plot No. 49, measuring an area of 3.48 acres both situated at village – Ghutuwa, P.S – Patratu, District- Hazaribagh (hereinafter to be referred as "the said lands") by way of a registered sale deed dated 06.06.1945. After purchase of the said lands, the predecessor-in-interest of the original writ petitioner came in possession of the same. The said lands were also mutated in his name and he paid the rent of the same.

3. The original writ petitioner filed an application before the Circle Officer, Patratu (respondent no. 6) for issuance of rent receipt of the said lands in his favour whereupon the respondent no. 6 registered a case as Miscellaneous Case No. 47 of 2000-2001 and after making enquiry, the said respondent sent the record of the case to the respondent no. 5- the Land Reforms Deputy Collector, Ramgarh (earlier Hazaribagh). The said case was dismissed vide order dated 24.11.2004 observing that the nature of the land appertaining to Khata No. 77, plot no.- 49, measuring an area of 3.48 acres was declared as 'Gairmajarua Khas' vide order dated 09.10.1980 passed in Misc. Appeal No. 09/1979-80 by the Land Reforms

Deputy Collector, Hazaribagh. Pursuant to the said order, the *Jamabandi* of the said land opened in the name the predecessor of the original writ petitioner was kept on hold. It was further observed that the land appertaining to Khata No. 15, Plot No. 41 measuring an area of 2.89 acres was the *raiyati* land of Binodi Bedia (the appellant herein) and as such the respondent no. 6 was directed to restore the land belonging to the appellant in his favour under section 46(4) of the Chotanagpur Tenancy Act, 1908 (in short, "the Act, 1908").

4. Aggrieved by the order dated 24.11.2004, the original writ petitioner preferred an appeal being L.R. Appeal No. 20 of 2004 before the Additional Collector, Ramgarh (the respondent no. 4) which was allowed vide order dated 03.01.2006 directing to continue *jamabandi* of the said lands in favour of the original writ petitioner and to issue rent receipt in his favour by accepting the due rents.

5. The present appellant filed revision before the respondent no. 2 being Hazaribag Land Restoration (C.N.T.) Revision Case No. 12 of 2006. The said revision was allowed vide order dated 29.04.2008 upholding the order dated 24.11.2004 passed by the respondent no. 5 and the Deputy Commissioner, Ramgarh (the respondent no. 3) was directed to restore the land belonging to the appellant.

6. The original writ petitioner filed writ petition being W.P.(C) No. 3137 of 2008, however during pendency of the said writ petition, he died and his legal heirs (the respondent no. 7 to 11 herein) were substituted as the writ petitioners. The learned Single Judge vide impugned order dated 16.07.2024 disposed of the said writ petition by observing as

under:-

> *"21. This court is of the considered view that in a proceeding for issuance of rent receipt, no order of restoration can be passed under Section 46(4-A) of CNT Act. The provision of the CNT Act clearly provides that an opportunity of hearing is required to be granted to the respective parties before passing an order of restoration. This Court finds that in a case for restoration of land, there are numerous issues which can be raised by either parties including the point of limitation, unreasonable delay in filing the application, applicability of the provisions of CNT Act, etc. and in absence of initiation of any proceeding specifically by referring to Section 46(4-A) of CNT Act, the order dated 24.11.2004 by which the LRDC, Ramgarh had directed restoration of land in favour of the private respondent in a proceeding for issuance of rent receipt cannot be sustained in the eyes of law. Accordingly, the impugned order passed by the learned Commissioner in Hazaribag Land Restoration (C.N.T) Revision No. 12 of 2006 by which the order dated 24.11.2004 has been restored with a further direction upon the Deputy Commissioner to restore the land to the private respondent herein, also cannot be sustained. Consequently, the part of the order by which the order dated 24.11.2004 has been restored and a direction has been issued to the Deputy Commissioner to restore the land to the private respondent of the present case is hereby set aside.*
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> *22. However, it is observed that this order will not revive the appellate order and considering the fact that earlier an application for issuance of rent receipt was rejected way back in 1979-80, there is no question of issuance of rent receipt to the petitioners in connection with the properties involved in the present case.*

23. It is further observed that this order will not stand in the way of the respondents to take steps under the provisions of the Chota Nagpur Tenancy Act, 1908 with respect to restoration of land to the private party. Further, all the contentions of the respective parties are kept open.

24. With respect to the remaining property of 3.48 acres which is alleged to be Gair Majarua Khas land, it will be open to the petitioners to get their right title, interest, etc. decided through a competent forum/court of law.

25. This writ petition is accordingly disposed of in the aforesaid terms.

26. Pending interlocutory application, if any, is closed."

7. The learned counsel for the appellant submits that the Act, 1908 puts complete embargo on transfer of any land belonging to a tribal to a non-tribal. Even a tribal can transfer a land to another person of tribal community after taking permission of the Deputy Commissioner as required under Section 46 of the Act, 1908.

8. It is further submitted that Section 71-A is inserted in the Act, 1908 by the Bihar Scheduled Areas Regulation, 1969 which confers power on the Deputy Commissioner to restore possession of any land belonging to a member of the Scheduled Tribe which is unlawfully transferred to any other person.

9. It is also submitted that the writ petitioners/private respondents herein cannot claim any right over the said land by virtue of a sale deed which was executed in violation of the provisions of the Act, 1908.

10. Learned counsel for the appellant further submits that the ancestor of the writ petitioners, in collusion with the then revenue officials,

deceitfully succeeded to get his name entered in the Demand Register-II pertaining to the said lands without any order of the competent authority.

11. On the contrary, the learned counsel for the writ petitioners/private respondents herein submits that the learned Single Judge vide impugned order dated 16.07.2024 has rightly set aside the part of the order dated 29.04.2008 passed by the respondent no. 2 and the same needs no interference of this Court.

12. It is further submitted that Misc. Case No. 47 of 2000-01 was registered on an application of the original writ petitioner filed for issuance of rent receipts of the said lands and the respondent no. 5 as well as the respondent no. 2 had exceeded their jurisdiction in treating the said case as land restoration case.

13. Heard learned counsel for the parties and perused the materials available on record.

14. Thrust of the argument of the learned counsel for the appellant is that the *raiyati* land belonging to the ancestors of the appellant, has rightly been ordered to be restored in his favour since the same was transferred in favour of the ancestor of the original writ petitioner in utter violation of the provisions of the Act, 1908.

15. It transpires from the record that the land appertaining to Khata No. 15, Plot No. 41 measuring an area of 2.89 acres situated at village - Ghutuwa, P.S – Patratu, District-Hazaribagh was recorded in the name of Gendua Bedia who was the ancestor of the present appellant. The land appertaining to Khata No. 77, Plot No. 49, measuring an area of 3.48 acres situated at village - Ghutuwa, P.S. - Patratu, District Hazaribagh

was recorded as *Gairmajarua Khas* land. Both the lands were purchased by Mahmadi Miyan- the ancestor of the original writ petitioner by way of registered sale deed dated 06.06.1945. The said lands were also mutated in his name in the revenue records and he accordingly paid the rent of the same. Subsequently, the issuance of the rent receipts of the said lands was stopped.

16. In the year 1979-80, the original writ petitioner filed an application before the respondent no. 5 seeking issuance of rent receipts of the said lands which was registered as Misc. Appeal No. 09 of 1979-80, however the said appeal was rejected vide order dated 09.10.1980 observing that the nature of the land in question was 'Gairmajarua Khas'.

17. The said order was never challenged by the original writ petitioner. The original writ petitioner again filed an application before the Circle Officer, Patratu (the respondent no. 6) for issuance of rent receipts of the said lands which was registered as Misc. Case No. 47 of 2000-2001. In the said case, the appellant objected the claim of the original writ petitioner whereupon the respondent no. 6 made enquiry and forwarded the case record to the respondent no. 5 with a recommendation to issue rent receipts of the said land in favour of the appellant.

18. The respondent no. 5 vide order dated 24.11.2004 accepted the recommendation of the respondent no. 6 and directed to restore the *raiyati* land of Genduwa Bedia in favour of his successor i.e., the appellant. Though, in appeal, the respondent no. 4 set aside the order of the respondent no. 5, however the respondent no. 2 vide order dated 29.04.2008 again restored the order of the respondent no. 5.

19. Undisputedly, Misc. Case No. 47 of 2000-01 was instituted on an application filed by the original writ petitioner seeking issuance of rent receipts of the said lands which was the subject matter of the 'Bihar (now Jharkhand) Tenants Holdings (Maintenance of Records) Act, 1973 and under the said Act, no power is vested with the revenue authorities to pass an order for restoration of land even if the same is found to have been transferred in violation of the Act, 1908.

20. The Act, 1973 has been specifically enacted for maintenance of up-to-date records of holdings of *raiyats* and the matters connected therewith whereas the Act, 1908 has been enacted for the purpose of securing the land rights of occupancy *raiyats* belonging to tribal communities. Thus, both the Acts have been enacted for distinct object and purposes.

21. In a proceeding under a particular enactment, an authority cannot exercise the power conferred under a different enactment. In exercise of power conferred under section 16 of the Act, 1973, the respondent no. 3 as a Collector, has been empowered to hear revision. The said authority has also been empowered under Section 46(4-A) of the Act, 1908 to restore any land belonging to an occupancy *raiyat* of tribal community which is found to be transferred in contravention of Clause (a) of the second proviso to sub-section (1) of Section 46 of the said Act. However, that does not mean that the power conferred under the Act, 1908 can be exercised in a proceeding under the Act, 1973.

22. Moreover, Section 46(4-A) of the Act, 1908 itself provides that before passing an order under the said provision, the Collector is required

to conduct an inquiry in the prescribed manner and to provide due opportunity of hearing to the parties concerned. In the present case, no proceeding under the Act, 1908 was initiated against the original writ petitioner. Moreover, the power under the said Section was required to be exercised only within twelve years from the date of transfer of the concerned holding. The said aspect of the matter was not at all taken into consideration by the respondent no. 2. As such, the learned Single Judge has rightly set aside the part of order dated 29.04.2008 passed by the respondent no. 2.

23. So far as the claim of the writ petitioners for issuance of rent receipts of the lands in question is concerned, the said claim has also been correctly declined by the learned Single Judge in view of the fact that the earlier application filed by the original writ petitioner for the same purpose was already rejected by the respondent no. 6 and the said order was never challenged before higher forum.

24. In view of the aforesaid discussion, the impugned order dated 16.07.2024 passed by the learned Single Judge does not need any interference of this Court. The present appeal is, accordingly, dismissed. However, the parties will be at liberty to take appropriate recourse(s) before the appropriate forum/court for redressal of their grievances in accordance with law.

25. Pending interlocutory application(s), if any, also stands disposed of.

(M.S. Sonak, C.J.)

(**Rajesh Shankar, J.)**

September 07, 2026
Ritesh/**A.F.R.**
Uploaded on 11.09.2026