IN THE HIGH COURT OF JHARKHAND, RANCHI

C.M.P. No.691 of 2024

Tapeshwar Singh, aged about 59 years, son of late Sukhu Singh, resident of Co-operative Colony, P.O. and P.S. Saraidhela, District- Dhanbad ***..... Petitioner***

-- Versus --

1.Bharat Coking Coal Limited [BCCL], represented through Managing Director, Koyla Bhawan, P.O.-BCCL Township, PS Saraidhela, District Dhanbad

2.General Manager (Bhu Sampada), BCCL, PO BCCL Township, PS Saraidhela, District Dhanbad

3.The Estate Officer, BCCL, PO BCCL Township, PS Saraidhela, District Dhanbad ***..... Respondents/O.Ps.***

CORAM: HON'BLE MR. JUSTICE S ANJAY KUMAR DWIVEDI

For the Petitioner(s) :- Rajeev Ranjan Tiwary, Advocate

:- Mr. Ranjit Kumar Tiwary, Advocate

For Respondent B.C.C.L :- Dr. Ashok Kumar Singh, Advocate

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*07****/24.09.2026*** Heard Mr. Rajeev Ranjan Tiwary, the learned counsel appearing on behalf of the petitioner as well as Dr. Ashok Kumar Singh, the learned counsel appearing on behalf of the respondent Nos.1-3/ Bharat Coking Coal Limited [BCCL].

2. This petition has been filed under Article 227 of the

Constitution of India for quashing the order dated 07.08.2023 passed by Principal District Judge, Dhanbad, passed in Civil Misc. Appeal No. 37/2017, whereby the appeal preferred by the petitioner has been dismissed and affirmed the order passed by Estate Officer, dated 22.06.2017.

3. Mr. Tiwary, the learned counsel appearing on behalf of the petitioner submits that the petitioner has purchase the piece of land admeasuring 11 decimals at Mauza-Saraidhela, Mauza No.8 for measurement as Khata No. 90, Plot No. 84, vide registered sale deed executed by Krishna Nandan Prasad Yadav, Secretary B.C.C.L. Employees Housing Co-operative Society, Ltd. vide registered sale deed dated 30.12.2004 and after purchase of the same, the petitioner has got the said land mutated in the Shrista of State vide mutation case no. 2959(ii)/2008-09 as contained in Annexure-1 series. He next submits that after purchase of the said land the petitioner approached Mineral Area Development Authority Dhanbad, for sanction of Map for construction of residential building and after verifying the same the Map was sanctioned by Mineral Area Development Authority Dhanbad, vide letter no. TP-1124/NN/dated 19.01.2015 as contained in Annexure-2. He next submits that the

respondent BCCL vide letter dated 27.02.2015 addressed to C.O. Dhanbad, has prayed for appointment of Amin to demarcate plot no. 81, 82, 83, 84, appertaining to Khata No.10, under Mauza Saraidhela, Thana No.8 for measurement as the same was acquired by B.C.C.L. in Bhu Arjan Case No.7/65/66 and vide order dated 27.03.2015 and the same was communicated to the petitioner vide letter dated 27.03.2015 as contained in Annexure-3 series. He next submits that that thereafter the said land was measured on 06.04.2015, and as the petitioner was present at the time of measurement, the land which was purchased by the petitioner was found outside the acquired area but, no measurement report was given to the petitioner despite the fact that the petitioner has filed representation on 16.07.2015 before Circle Officer demanding the measurement report. He next submits that all of a sudden, the petitioner has received a memo of notice wherein it is informed that the petitioner has encroached the land of B.C.C.L. accordingly the petitioner was directed to file show-cause as contained in Annexure-5. He further submits that on receipt of the notice, the petitioner appeared and filed his show-cause wherein petitioner has narrated entire facts and further petitioner has asserted that petitioner has not

encroached any land of the respondent and the land of the petitioner falls out-side the acquired land and, accordingly, prayed for dropping the said proceeding. He next submits that thereafter the respondents have adduced the evidence and without giving proper opportunity to the petitioner to adduce evidence, the evidence of petitioner was closed without giving proper information to the petitioner. He next submits that in Case No. 01/2016 the petitioner has filed a petition on 10.05.2017 with prayer to measure and demarcate the land in question through a survey knowing Pleader Commissioner but the same was rejected even without calling rejoinder and hearing the appellant against which the petitioner has preferred Civil. Misc. Appeal no.34/2017. However, the Estate Officer has passed the order dated 22.06.2017 stating therein that the petitioner has encroached the land, and against that, the petitioner has preferred the appeal before the learned Principal District Judge, Dhanbad which was registered as Civil. Misc. Appeal no.37/2017 which was rejected by order dated 07.08.2023. Mr. Tiwary, the learned counsel for the petitioner further submits that on perusal of the appellate order, it is crystal clear that the documents which the petitioner has relied has not been discussed therein and

he next submits that it is an apparent error which can be rectified by this Court sitting under Article 227 of the Constitution of India. He next submits that in the order of the Estate Officer it has been noted that the petitioner herein has filed Sale Deed no.2864 dated 27.5.2004, Order sheet of Mutation No.2969(ii)/2008-09, Correction Slip, Rent Receipts, Sanction letter of M.A.D.A. dated 19.01.2015, Xerox Copy of letter vide No.BCCL/ED/2015/3527 dated 27.02.2015, Nazir Receipt dated 24.03.2015, Xerox copy of the Letter issued to Anchal Amin Dated 27.03.2015, Xerox copy of the letter submitted to the C.O., Dhanbad dated 16.7.2015 and Xerox copy of the Reminder addressed to the C.O., Dhanbad dated 20.01.2016. He next submits that although the above documents have been noted in the order of the Estate Officer of the respondent/BCCL, however, the learned appellate court has not discussed about the said documents and straightway has wrongly held that the petitioner herein has not produced any document to make out his case and has held that the petitioner has encroached the land and in view of that, he submits, that the appellate order may kindly be set aside.

4. On the other hand, Dr. Ashok Kumar Singh, the learned counsel appearing on behalf of the respondent

nos.1 to 3/Bharat Coking Coal Limited –BCCL submits that this Court sitting under Article 227 of the Constitution of India, unless finds that there is apparent error in the order of the learned appellate court on record, this Court may not pass any order. He next submits that the land in question was acquired in Bhu Arjan Case No. 7/65/66 by the respondent/BCCL and the petitioner herein has encroached the land and, therefore, the Estate Officer has rightly passed the order which has been affirmed by the learned appellate court. He also submits that the mutation is not a document to declare the right, title and interest and even the passing of Map by the MADA has got no value to the issue under consideration and in view of that, those documents are having no force to entertain this petition under Article 227 of the Constitution of India and he next submits that unless the order is perverse, this court may not quash the order as the learned counsel appearing for the petitioner has not been able to show any perversity in the impugned order and on these grounds he submits that this CMP may kindly be dismissed.

5. In view of above submission of the learned counsels appearing on behalf of the petitioner as well as the respondent/BCCL, the Court has gone through the

materials on record and finds that admittedly the petitioner has purchased 11 decimals of land by the sale deed dated 07.05.2004 and the same was mutated in favour of the petitioner in Mutation Case no. 2959(ii)/2008-09 and Correction Slip was also issued, the Rent receipt has also been issued and the M.A.D.A has passed the Map for construction of the house. Prima facie, all these materials suggest that the petitioner has occupied the said land pursuant to the said purchase and it has been pointed in course of the argument that so far as the plot no.84 is concerned, it is having 44 decimals and the respondent /BCCL has acquired only 11 decimals of land whereas the petitioner is claiming that part of the land of 11 decimals as acquired by the petitioner by way of sale deed. In this background, the petitioner has filed a petition before the Estate Officer for measurement, however, that has been erroneously rejected by the Estate Officer and against that the petitioner herein has moved before the appellate authority, however, during the pendency of the appeal of rejecting the appointment of the survey knowing Pleader Commissioner, the Estate Officer has disposed of the case.

6. On perusal of the appellate court order, it transpires that the learned appellate court has said that

the petitioner has not filed any document to claim his case which is an apparent error on the record in view of the order of the Estate Officer wherein he has noted that the aforesaid documents, which has been noted in the argument of Mr. Rajeev Ranjan Tiwary, the learned counsel appearing on behalf of the petitioner, which prima facie, suggest that the learned appellate court has overlooked the same and erroneously held that the petitioner has not filed any document.

7. This Court is in agreement with the argument advanced by Dr. Ashok Kumar Singh, the learned counsel appearing on behalf of the respondent/ BCCL regarding Article 227 of the Constitution of India. There is no doubt that Article 227 of the Constitution of India confers a right of superintendence over all Courts and tribunals throughout the territories in relation to which the High court exercises the jurisdiction but no corresponding right is conferred upon a litigant to invoke the jurisdiction under said Article as a matter of right. In fact, power under this Article casts a duty upon the High Court to keep the inferior Courts and tribunals within the limits of their authority and that they do not cross the limits, ensuring the performance of duties by such Courts and tribunals in accordance with law conferring power within

the ambit of the enactments creating such courts and tribunals. Only wrong decisions may not be a ground for exercise of jurisdiction under this Article unless the wrong is referable to grave dereliction of duty and flagrant abuse of power by the subordinate Court and tribunals resulting in grave injustice to any party. A reference may be made to the case of ***Ouseph Mathai v. M. Abdul Khadir, (2002) 1 SCC 319.***

8. Further, the jurisdiction under Article 227 of the Constitution may be restrictive in sense that it is to be invoked only to correct errors of jurisdiction. But when a court asks itself a wrong question or approaches the question in an improper manner, even if it comes to a finding of fact, the said finding of fact cannot be said to be one rendered with jurisdiction and it will still be amenable to correction at the hands of the High Court under Article 227 of the Constitution. The failure to render the necessary findings of support its order would also be a jurisdictional error liable to correction under Article 227 of the Constitution of India. A reference may be made to the case of ***Kishore Kumar Khaitan v. Praveen Kumar Singh, AIR 2006 SC 1474***.

9. What has been discussed hereinabove, the learned appellate court has made an apparent error on the record

holding that the petitioner has not filed any document and on the contrary, the documents have been filed which has been noted in the order of the learned Estate Officer of respondent/ BCCL, and further, the dispute is there with regard to 11 decimals of land of plot no.84 and the petitioner has purchased the same by way of sale deed whereas the BCCL is also claiming 11 decimals acquired of plot no.84. It is not the case of the respondent/BCCL that it has acquired the entire chunk of plot no.84 and if the said situation is there, it was incumbent upon the authority concerned to take the measurement as prayed by the petitioner herein which has not been done.

10. In view of above facts, reasons and analysis, the impugned order dated 07.08.2023 passed by Principal District Judge, Dhanbad in Civil Miscellaneous Appeal No.37 of 2017 is, hereby, set-aside.

11. The said Civil Miscellaneous Appeal No.37 of 2017 is, hereby, restored to the file of learned Principal District Judge, Dhanbad who will decide the said Civil Miscellaneous Appeal afresh considering the documents filed by the petitioner after providing the opportunity of hearing to the petitioner as well as the Opposite party/ Respondent –BCCL as the said Civil Misc. Appeal is of the year 2017 and in view of that, the petitioner and the

respondent/BCCL are directed to appear before the leaned court concerned.

12. It is open to the learned appellate authority if he comes to the conclusion for coming to the correct finding, he may get the land in question measured in presence of both the parties by the competent State authority and the petitioner as well as the respondent-BCCL are directed to appear before the learned court concerned at 10.30 A.M. on 05.10.2026.

13. This petition being C.M.P. No.691 of 2024 is allowed in the above terms and disposed of.

(Sanjay Kumar Dwivedi, J.)

SI/ A.F.R
Dated : 24.09.2026
Uploaded/ 29.09.2026