

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P.(C) No. 5862 of 2019**

- |  |  |     |     |  |             |
|--|--|-----|-----|--|-------------|
| 1. Upendra Singh   |  |     |     |  |             |
| 2. Sudarshan Singh   |  | ... | ... |  | Petitioners |
| Versus   |  |     |     |  |             |
| 1. The State of Jharkhand, through Deputy Commissioner, Garhwa                 |  |     |     |  |             |
| 2. Deputy Commissioner, Garhwa   |  |     |     |  |             |
| 3. Sub-Divisional Officer-cum-Executive Officer, Municipal Corporation, Garhwa |  |     |     |  |             |
| 4. Circle Officer, Garhwa, District-Garhwa                                     |  | ... | ... |  | Respondents |

**CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioners                    :- Mr. Ayush Aditya, Advocate  
 For the Respondents                :- Ms. Rashmi Kumari, A.C. to Sr.S.C.-II

**Order No. 05**

**Dated: 09.07.2020**

The present case is taken up through video conferencing.

**2.** The present writ petition has been filed for issuance of direction upon the respondents to refrain from forcefully measuring the petitioners' land pertaining to khata no. 40, plot no. 99, village- Sonpurwa measuring an area of 3.08 acres (hereinafter to be referred as "the said land"). Further prayer has been made for issuance of direction upon the respondent nos. 3 and 4 to pass necessary orders on the representations dated 12.09.2019 made by the petitioner no. 2.

**3.** Learned counsel for the petitioners submits that the said land was settled by the ex-landlord namely Babu Kedar Nath Singh by way of executing Hukumnama in favour of Sarju Singh son of Mahmu Singh (the ancestor of the petitioners). After the said settlement, the petitioners' ancestor was also issued Malgujari rent receipt by the ex-landlord and on vesting of the Jamindari interest in terms with the Bihar Land Reforms Act, 1950, the return was duly filed by the ex-landlord showing the name of Sarju Singh as *raiyat* of the said land. It is further submitted that name of the petitioners also finds mention in Register-II and the rent receipts have also been issued in their favour. However, suddenly on 11.09.2019, the concerned *Amin* along with *Halka Karamchari* started measuring the said *raiyati* land of the petitioners. On being objected by the petitioners, they were orally informed that the said land has been identified for the purpose of construction of houses under 'Pradhan Mantri Awas Yojna'. The said *Amin* was however not allowed by the petitioners to take measurement of the said land. Thereafter on 12.09.2019, the petitioner no.2 made representation

before the respondent nos. 3 and 4 explaining the right, title and possession over the said land. It has also been stated in the said representation that there is a boundary wall existing over the said land and the petitioners have been residing there after constructing house.

**4.** An interlocutory application being I.A. No. 3736 of 2020 has also been filed on behalf of the petitioners on 29.06.2020 stating inter alia that on 24.06.2020, the officials of the local administration came to the petitioners' land in question along with bulldozer and tried to demolish the boundary wall and building. The petitioners informed the said officials that they have already moved before this Court as such the concerned official should stay hands from demolishing the boundary wall and the building existing over the said land. On giving such information, the said officials temporarily stopped the demolition work for a period of one week.

**5.** Learned A.C. to Sr.S.C.-II appearing on behalf of the respondents, submits that the present matter requires factual determination at an appropriate level and as such if the petitioners prefer a fresh representation before the respondent no.4- the Circle Officer, Garhwa along with supporting documents in relation to the said land, an appropriate decision would be taken in accordance with law.

**6.** Having heard the learned counsel for the parties and keeping in view the nature of prayer made in the writ petition, without entering into the merit of the case, the petitioners are given liberty to prefer fresh representation along with supporting documents on the present issue before the respondent no. 4 by 16.07.2020. On receipt of such representation by the said date, the respondent no. 4, after making due inquiry and on providing adequate opportunity of hearing to the petitioners/their representative, shall take an informed decision in accordance with law. Till the said decision is taken by the respondent no. 4, no further demolition of the construction existing over the said land (boundary wall and building), shall be made by the respondent authorities.

**7.** The writ petition is accordingly disposed of with aforesaid liberty and direction.

**8.** I.A. No. 3736 of 2020 also stands disposed of accordingly.

**(Rajesh Shankar, J.)**