

In The Court of Deputy Commissioner, Ramgarh

Encroachment Appeal No. 05/09

Rijhu Nath Choudhary Versus State

Order

20.8.13

The present appeal has been filed against the order by the Circle Officer, Ramgarh in L.E. Case No. 17/07-08 on 12-01-2009. The letter had issued on order u/s 6 of the BPLE Act 1956 for removal of boundary and other construction.

The appellant has prayed for quashing the order of the lower court of the ground that the said land is used for Karma and Sarhul Puja. It is added that land is situated to the West of the temple 'Chinmastika' and the villagers annually congregated there on the occasion of 'Karma Puja' and 'Sarhul Festival' and they offer Puja for the Holy tree.

It has never been disputed that the following land is a Government land:

Village	Khata	Plot	Area	Land Type
Lerhi Tungri	1	1	10.75	Damodar River
		110	4.64	Bhera Nadi

But the counsel for the appellant pleaded that by principle of adverse possession as decided by Patna High Court (Spl. Bench) in AIR 1955, P-1, the title by adverse possession can be acquired in Gairmajarua Khas and Brahmottar land of the Malik and as such cannot be treated as Public land. Reliance was also placed in rulings reported in BBCJ-1990, p-432; PLJR 1955 page 37; PLJR 2000(i) Page 209; PLJR 2000 (i) page 301; PLJR 1992 (2) page 334; BLJ 1999 (ii) page 361; AIR 1982 SC Page 1081.

Thus it is beyond doubt that the land under consideration is a 'Public Land' within the meaning of BPLE Act 1956. The two plots are parts of Rivers Damodar and Bhera. It appears that the appellant is trying to grab the River land by putting forward religious elements like 'Karma & Sarhul'.

There does not exist any ruling which confers a legal right on any encroacher to grab the river bed in the name of religious festivals. Nor has the State Government

issued any circular for regularising any encroachment in the name of religion. Surprisingly the appellant Rijhu Nath Choudhary in a non-tribal who is fighting for a tribal cause.

For the reasons mentioned aforesaid, the lower court has not committed any illegality in passing the order of removal of encroachment. The circle officer would be entitled to evict the Appellant in accordance with law and send compliance within a fortnight. The appeal is dismissed.

Written and Corrected by

Deputy Commissioner,
Ramgarh.

Deputy Commissioner,
Ramgarh.