

“For issuance of appropriate writ(s)/order(s)/direction(s), directing the authorities to take appropriate action against persons obstructing the discharge of official duties and to ensure the petitioner's peaceful possession, use, and enjoyment of his property without interference. The petitioner further seeks quashing of Letter No. 388 dated 28.06.2019 issued by the State Disability Commissioner, Jharkhand, on the ground that it wrongly determined the title of the disputed land against the petitioners, despite their long-standing possession. The petitioner also seeks directions to protect his peaceful possession of the land, award suitable compensation for the harassment and mental agony caused by interference with such possession, and maintain status quo over the land during the pendency of the writ petition. “

2. The petitioner in W.P(C) No. 915 of 2020 has prayed for issuance of direction upon respondents to take action against the persons who are deterring the respondents in discharging their duty and to take appropriate measures so that the petitioner could enjoy his property peacefully and without any hinderance.

3. The case of petitioners of W.P.(C) No. 451 of 2020 is that land pertaining to Khata No.35, 25, 39 & 01, having plot No.1, 5, 33, 134, 88, 7, 30 & 32 total area 2.97 acres, situated at village Dholiya belongs to their ancestor and they have peaceful possession over the said land. They are aggrieved of an order contained in Letter No. 388 dated 28.06.2019 issued by the State Disability Commissioner, Jharkhand, on the ground that it had wrongly determined the title of the land in question against the petitioners, despite their long-standing possession.

4. The respondent No. 7 [who is the petitioner in W.P.(C) No. 915 of 2020] is a disabled person and comes under the definition of benchmark disability as defined under the Rights of Persons with Disabilities Act 2016. He alleged that owing to his disability certain people of his locality had tried to grab his landed property bearing Khata No. 35, 25, 39, 01. Respondent no.7 made a complaint in this regard to the State Disability Commissioner, Jharkhand Ranchi. Thereafter the State Disability Commissioner, Jharkhand Ranchi passed the impugned order dated 28.06.2019. As no effective steps were taken for implementing the said order and no action was initiated against those who created the obstruction, respondent No.7 has filed this writ petition being W.P.(C) No. 915 of 2020.

5. Learned counsel for the petitioners[in W.P.C. No. 451 of 2020] submitted that Respondent No. 7 has no valid right, title, or interest over

the land in question and has raised false claims only to harass the petitioners. The State Disability Commissioner, Jharkhand, acted beyond its jurisdiction by entertaining and deciding issues related to title and possession of land, which are matters falling, exclusively, within the jurisdiction of a competent Civil Court. The petitioners seek protection of their possession, quashing of the impugned letter, and appropriate directions from this Hon'ble Court.

6. Learned counsel for respondent No.7 [petitioner in W.P.(C) No.915 of 2020] submitted that the respondent No.7 being disabled person approached the State Disability Commissioner. The State Disability Commissioner had decided the claim of the respondent No.7 and issued directions. He further submitted that the Circle Officer had gone to the aforesaid landed property along with Revenue Officer, Circle Inspector, police officers but some persons created hindrances. Although reports were submitted and directions were issued by the Additional Collector for necessary action, neither effective steps were taken nor any action was initiated against those who created the obstruction. Thus, learned Counsel for the respondent No.7 prayed for issuance of direction to the respondents to protect his property rights, and take action against persons interfering with official duties.

7. After hearing parties and perusing the record, I find that both parties have claimed right, title, interest and possession over the land in question. Respondent No.7 [petitioner in W.P.(C) No.915 of 2020] alleged that owing to his disability certain people of his locality had tried to grab his landed property bearing Khata No. 35, 25, 39, 01. He made a complaint in this regard to the State Disability Commissioner, Jharkhand Ranchi. The State Disability Commissioner vide letter no.388 dated 28.06.2019 [Annexure 5 to W.P.(C) No. 451 of 2020] had decided the claim of the respondent No.7. Relevant paragraph of the impugned order, reads as under:

“उपर्युक्त तथ्यों से स्पष्ट होता है कि प्रतिवादियों द्वारा वादी के भूमि एवं संपत्ति पर दावा करना निराधार है क्योंकि संबंधित भूमि को वादी के पास सभी कागजात हैं एवं झारखण्ड सरकार का मालगुजारी रसीद निर्गत हो रहा है। इसके बावजूद भी प्रतिवादियों द्वारा वादी को परेशान करना, खेती करने से रोकना, प्रताड़ित करना जैसे मामला होने पर दिव्यांगजन अधिकार अधिनियम 2016 के अंतर्गत दंडनीय अपराध की श्रेणी में माना जाता है। उक्त निदेश का अनुपालन सुनिश्चित करते हुये वादी को उक्त भूमि पर कृषि कार्य करने में आवश्यक कार्रवाई अपेक्षित है।”

English translation:

“It is clear from the above facts that the claim of the defendants on the property and estate of the plaintiff is baseless because the plaintiff has all the documents of the land in question and the land revenue receipt is being issued by the Jharkhand Government. Despite this, if the defendants harass the plaintiff, prevent him from farming, or obstruct him in such matters, then it is a punishable offence under the Rights of Persons with Disabilities Act 2016. Ensuring compliance with the above direction, necessary action is required to be taken by the plaintiff to carry out agricultural work on the said land.”

8. From the above it is clear that the State Disability Commissioner, Jharkhand has gone into the question of title of landed property in dispute and directed the revenue authority for taking action accordingly. In light of that letter the Additional Collector, Chatra had instructed to the Sub Divisional Officer, Chatra to make inquiry and submit compliance report.

9. The United Nations Convention laid down the principles for empowering persons with disabilities. Those principles are as under: -

- (a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;***
- (b) non-discrimination;***
- (c) full and effective participation and inclusion in society;***
- (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;***
- (e) equality of opportunity;***
- (f) accessibility;***
- (g) equality between men and women;***
- (h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities;***

10. To enforce the rights, the Government enacted the Rights of Persons with Disabilities Act, 2016, as it was necessary to implement the United Nations Convention.

11. This Statue has been enacted to ensure that no person or any class of persons is deprived of any of their rights because of Disability. This Act eliminated any scope of disparity between a person with disability from a person without disability. By virtue of Section 3 of the Act, a duty is casted upon the appropriate Government to ensure that persons with disability enjoy the right to equality, life with dignity and respect for his or her integrity equally with others. The capacity enhancement should also be looked after by the appropriate Government. Sub Section (3) of Section 3 clearly mandates that no

person with disability shall be discriminated on the ground of such disability, with a rider that unless it is shown that the impugned act or omission is a proportionate mean of achieving the legitimate aim. Sections 6 and 7 of the Act provide for protection from cruelty and inhuman treatment and also protection from bias, violence and exploitation of a disabled person. Section 12 provides that an appropriate Government shall ensure that a person with disability gets access to justice. It provides that persons with disability cannot be deprived of approaching any Court, Commission or any other body, judicial or quasi judicial without any discrimination on the basis of disability. There are several provisions in the Act, which ensure that a person should not be deprived just because of any disability and if there are disabilities, that person should get all benefits, equal opportunity in different fields, which a person without disability gets.

12. Thus, from a bare reading of provisions of the Act and the Scheme of the Act, it is clear that this piece of legislature was promulgated to ensure that a person with disability is not deprived of any of his rights, just on the ground of his disability.

13. Chapter XI of the Act provides for constitution of Central and State Advisory Boards on disability and District Level Committees and deals with their qualification and disqualification. Chapter XII deals with the Chief Commission and State Commissioner for persons with disability and their functions and actions, which are necessary.

14. Section 75 deals with the functions of Chief Commissioner, which are as follows: -

75. Functions of Chief Commissioner. – (1) The Chief Commissioner shall –

(a) identify, suo motu or otherwise, the provisions of any law or policy, programme and procedures, which are inconsistent with this Act and recommend necessary corrective steps;

(b) inquire, suo motu or otherwise, deprivation of rights of persons with disabilities and safeguards available to them in respect of matters for which the Central Government is the appropriate Government and take up the matter with appropriate authorities for corrective action;

(c) review the safeguards provided by or under this Act or any other law for the time being in force for the protection of rights of persons with disabilities and recommend measures for their effective implementation;

(d) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial

measures;

(e) study treaties and other international instruments on the rights of persons with disabilities and make recommendations for their effective implementation;

(f) undertake and promote research in the field of the rights of persons with disabilities;

(g) promote awareness of the rights of persons with disabilities and the safeguards available for their protection;

(h) monitor implementation of the provisions of this Act and schemes, programmes meant for persons with disabilities;

(i) monitor utilisation of funds disbursed by the Central Government for the benefit of persons with disabilities; and

(j) perform such other functions as the Central Government may assign.

(2) The Chief Commissioner shall consult the Commissioners on any matter while discharging its functions under this Act.

15. Section 77 of the Act deals with the Powers of the Chief Commissioner, which reads as under: -

77. Powers of Chief Commissioner. – (1) *The Chief Commissioner shall, for the purpose of discharging his functions under this Act, have the same powers of a civil Court as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:-*

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any documents;

(c) requisitioning any public record or copy thereof from any Court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(2) Every proceeding before the Chief Commissioner shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Chief Commissioner shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

16. Section 80 of the Act deals with the functions of the State Commissioner, which reads as under: -

80. Functions of State Commissioner. – (1) *The State Commissioner shall –*

(a) identify, suo motu or otherwise, the provisions of any law or policy, programme and procedures, which are in consistent with this Act and recommend necessary corrective steps;

(b) inquire, suo motu or otherwise, deprivation of rights of persons with disabilities and safeguards available to them in

respect of matters for which the State Government is the appropriate Government and take up the matter with appropriate authorities for corrective action;

(c) review the safeguards provided by or under this Act or any other law for the time being in force for the protection of rights of persons with disabilities and recommend measures for their effective implementation;

(d) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial measures;

(e) undertake and promote research in the field of the rights of persons with disabilities;

(f) promote awareness of the rights of persons with disabilities and the safeguards available for their protection;

(g) monitor implementation of the provisions of this Act and schemes, programmes meant for persons with disabilities;

(h) monitor utilisation of funds disbursed by the State Government for the benefit of persons with disabilities; and

(i) perform such other functions as the State Government may assign.

17. Section 82 deals with the powers of the State Commissioner, which reads as under: -

82. Powers of State Commissioner. – (1) *The State Commissioner shall, for the purpose of discharging their functions under this Act, have the same powers of a Civil Court as are vested in a Court under the Code of Civil Procedure 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely: -*

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any documents;

(c) requisitioning any public record or copy thereof from any Court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(2) Every proceeding before the State Commissioner shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the State Commissioners shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

18. As per Sections 77 and 82 of the Act, both the Chief Commissioner and the State Commissioner are vested with power of a Civil Court, but in respect of the Acts mentioning in Sub Clause (a) and sub Clause (e) of the aforesaid Sections, this power can be exercised by these authorities to achieve the purpose of the functions, which they

are supposed to perform in terms of Sections 75 and 80 of the Act, respectively.

19. The Hon'ble Supreme Court in ***State Bank of Patiala v. Vinesh Kumar Bhasin, (2010) 4 SCC 368*** after examine the various provisions and especially section 63 of the Persons with Disabilities (Equal Opportunities, protection Of Rights and Full participation) Act, 1995 [which is now section 80 of the Rights of Persons with Disabilities Act, 2016] held that it does not enable Chief Commissioner and the Commissioners to assume the other powers of a Civil Court which are not vested in them. Paragraph No.17 of the judgment reads as under:

17. Section 63 provides that the Chief Commissioner and the Commissioners shall, for the purpose of discharging their functions under this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in regard to the following matters:

***"63. (a) summoning and enforcing the attendance of witnesses;
(b) requiring the discovery and production of any document;
(c) requisitioning any public record or copy thereof from any court or office;
(d) receiving evidence on affidavits; and
(e) issuing commissions for the examination of witnesses or documents."***

Rule 42 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996 lays down the procedure to be followed by the Chief Commissioner.

18. It is evident from the said provisions, that neither the Chief Commissioner nor any Commissioner functioning under the Disabilities Act has power to issue any mandatory or prohibitory injunction or other interim directions. The fact that the Disabilities Act clothes them with certain powers of a civil court for discharge of their functions (which include the power to look into complaints), does not enable them to assume the other powers of a civil court which are not vested in them by the provisions of the Disabilities Act. In All India Indian Overseas Bank SC and ST Employees' Welfare Assn. v. Union of India [(1996) 6 SCC 606], this Court, dealing with Article 338(8) of the Constitution of India (similar to Section 63 of the Disabilities Act), observed as follows: (SCC pp. 609 & 611, paras 5 & 10)

"5. It can be seen from a plain reading of clause (8) that the Commission has the power of the civil court for the purpose of conducting an investigation contemplated in sub-clause (a) and an inquiry into a complaint referred to in sub-clause (b) of clause (5) of Article 338 of the Constitution.

10. ... All the procedural powers of a civil court are given to the

Commission for the purpose of investigating and inquiring into these matters and that too for that limited purpose only. The powers of a civil court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause (8) of Article 338 of the Constitution.”

20. In view of section 82 of the Rights of Persons with Disabilities Act, 2016 and judgment of Hon’ble Supreme Court in **State Bank of Patiala (supra)**, it is clear that the State Commissioners shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974) but all the procedural powers of a Civil Court are given to the State Commissioner for the purpose of investigating and inquiring into these matters and that too for that limited purpose only.

21. Further, it is well-settled that Revenue Authorities have no power to decide title of a property, it can only be decided by a competent Civil Court. For better appreciation Section 5(2) of the Civil Procedure Code, 1908 here in quoted below:

5. Application of the Code to Revenue Courts.—

(1)

(2) “Revenue Court” in sub-section (1) means a Court having jurisdiction under any local law to entertain suits or other proceedings relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits or proceedings as being suits or proceedings of a civil nature.

22. The Hon’ble Supreme Court in **State of Gujarat v. Patil Raghav Natha, (1969) 2 SCC 187** held that when the title of an occupant is disputed by any party before the Collector or the Commissioner, the appropriate course for the Collector or the Commissioner would be to refer the parties to a competent court and not to decide the question of title himself against the occupant. Paragraph No.14 of the Judgment reads as under:

14. We are also of the opinion that the Commissioner should not have gone into the question of title. It seems to us that when the title of an occupant is disputed by any party before the Collector or the Commissioner and the dispute is serious the appropriate course for the Collector or the Commissioner would be to refer the parties to a competent court and not to decide the question of title himself against the occupant.

23. Further, in the case of **Suraj Bhan v. Financial Commissioner, (2007) 6 SCC 186**, the Hon’ble Supreme Court held

that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. Entries in the revenue records or jamabandi are for “fiscal purpose”, i.e., payment of land revenue, and no ownership is conferred on the basis of such entries. It is further observed that so far as the title of the property is concerned, it can only be decided by a competent Civil Court. Paragraph No.9 of the judgment reads as under:

“9. There is an additional reason as to why we need not interfere with that order under Article 136 of the Constitution. It is well settled that an entry in revenue records does not confer title on a person whose name appears in record-of-rights. It is settled law that entries in the revenue records or jamabandi have only “fiscal purpose” i.e. payment of land revenue, and no ownership is conferred on the basis of such entries. So far as title to the property is concerned, it can only be decided by a competent civil court (vide Jattu Ram v. Hakam Singh [(1993) 4 SCC 403: AIR 1994 SC 1653]). As already noted earlier, civil proceedings in regard to genuineness of will are pending with the High Court of Delhi. In the circumstances, we see no reason to interfere with the order passed by the High Court in the writ petition.”

24. Respondent No.7 in W.P.(C) No.451 of 2020, who is petitioner in W.P.(C) No. 915 of 2020, is a disabled person. He claims that the petitioner in W.P.(C) No.451 of 2020 is interfering with the land in question, which he claims to be his and are trying to grab the same, thus, he approached the Disability Commissioner, Jharkhand, Ranchi claiming reliefs and prayed therein to restrain them from interfering with the possession of Narendra Prasad Singh [the petitioner in W.P. (C) No. 915 of 2020] over the land.

25. The record suggests that Disability Commissioner, Jharkhand, Ranchi took up the matter and passed the impugned order restraining the petitioner in W.P.(C) No.451 of 2020.

26. From the entire case record, I find that just because Narendra Prasad Singh [petitioner in W.P.(C) No.915 of 2020] is a disabled person, he has approached the State Disability Commissioner. Dispute has got nothing to do with his disability. It is a land dispute between two persons. Both the persons are claiming some right over the property in question. This type of disputes, which are absolutely personal in nature and has no connection with the disability of either of the parties, nor is incidental thereto, cannot be adjudicated by the State Disability Commissioner. The State Disability Commissioner is not vested with the

power to adjudicate a land dispute between the parties, which is absolutely within the domain of a Civil Court. It is not a case that the disabled was denied access to justice and such disabled had approached the Commissioner. He could have easily approached the Civil Court. He chose a wrong forum, which is not meant to resolve the disputes raised by him.

27. Further, from the records it is clear that the State Disability Commissioner gave direction to the Revenue Authorities in respect of the land in question. It is the case that Narendra Prasad Singh [petitioner in W.P.(C) No.915 of 2020] was obstructed from farming his lands by the petitioners in W.P.(C) No. 451 of 2020. This also establishes the fact that there is some land dispute between the parties, which is not within the power of the State Disability Commissioner to adjudicate.

28. Thus, from what has been held above and in view of the judgments mentioned above, I hold that the State Disability Commissioner has no power to enter into and adjudicate land dispute between the parties and by doing so he has completely travelled beyond his jurisdiction. Thus, the order contained in Letter No.388 dated 28.06.2019 issued by the State Disability Commissioner, Jharkhand is hereby set aside. Consequently, W.P.(C) No.451 of 2020 stands allowed and W.P.(C) No. 915 of 2020 stands dismissed. It will be open to the parties to approach before the Competent Civil Court for declaration of their right, title and interest over the land in question, if they feel so or they may also pray for permanent injunction against the other party. Pending interlocutory applications, if any, stand disposed of.

(Ananda Sen, J.)

High Court of Jharkhand, Ranchi

Dated 29th June, 2026

Kumar/Cp-02

AFR

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