

W.A. No.436/2010

30.8.2011

Ku. Ashmita Mukhopadhyay, learned counsel for the appellant.

We have heard the learned counsel for the appellant. She has relied upon the decision of the Supreme Court rendered in the case of ***N.D. Jayal and another vs. Union of India and others***, AIR 2004 SC 867.

It is unfortunate that the learned counsel for the appellant started her argument and ended the argument with the said ruling, without reference to the facts of the case. Rulings apply to facts. The above decision has no application in the present case.

In 1982 the State Government published a Notification and modified the outer limit for *Panna* Tiger Reserve Forest. Village *Budharod* was one of the villages which was demarcated to be within the outer limit of the said Reserve Forest.

The Collector, *Panna* recorded a finding of pure fact that the petitioner was not a resident of that village. It was found by the Collector that the petitioner was a resident of Village, Jaitpur, District Chhatarpur.

The learned Single Judge held in the impugned order that there was no document or record to substantiate the claim that the petitioner-appellant was a resident of the Village *Budharod*.

The petitioner-appellant filed certain documents along with the writ petition. However the said documents relate to much later years like 2009. No document has been filed to indicate that in the year of the notification that is 1982, the petitioner-appellant was a resident of the Village *Bodharod*, which was affected by the Notification. Accordingly, on the findings of fact, the petitioner-appellant does not deserve any relief.

The writ appeal is dismissed.

(Sushil Harkauli)
Acting Chief Justice

(K.K. Trivedi)
Judge

ac./AK