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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3104 of 2024

1 - Manoj Nirmalkar S/o Late Shri Gajanand Nirmalkar, Aged About 40 Years
R/o Village Bhatagaon, Tahsil and District Raipur, Chhattisgarh.

2 - Mangal Nirmalkar S/o Late Shri Gajanand Nirmalkar, Aged About 40 Years
R/o Village Bhatagaon, Tahsil And District Raipur, Chhattisgarh.

3 - Chameli Nirmalkar D/o Late Shri Gajanand Nirmalkar Aged About 40
Years R/o Village Bhatagaon, Tahsil And District Raipur, Chhattisgarh.

... Petitioners

versus

1 - State of Chhattisgarh Through Secretary, Department of Revenue and
Disaster Management, Mahanadi Bhawan, Naya Raipur, Distt. Raipur (C.G.),

2 - The Chhattisgarh Board of Revenue Bilaspur, Through Its Secretary,
Circuit Bench Raipur, District Raipur (C.G.),

3 - Commissioner Raipur, Division, Distt. Raipur (C.G.)

4 - Sub Divisional Officer (Revenue) Raipur, District Raipur (C.G.)

5 - Tahsildar Raipur, District Raipur (C.G.)

6 - Ramadhar S/o Shri Bisru Sahu, R/o Village Bhatagaon, Tahsil and District
Raipur, Chhattisgarh.

... Respondents

For Petitioners	:	Mr. Bharat Gulabani, Advocate
For Respondent No.1 to 5	:	Mr. Anand Gupta, Dy. G.A.
For Respondent No.6	:	Mr. Rishikant Mahobia, Advocate

Hon'ble Shri Justice Sachin Singh Rajput

Order On Board

21/09/2026

1. The challenge in this writ petition is to the order dated 24.04.2023 passed by the Chhattisgarh Revenue Board, Bilaspur (Circuit Bench – Raipur) in Revenue Revision No. RN/14/R/A-70/500/2013, whereby the revision preferred by Respondent No.6 under Section 250 of the Chhattisgarh Land Revenue Code, 1959 (for short, 'the Code of 1959') was allowed, the order dated 11.09.2013 passed by the Additional Commissioner, Raipur Division, Raipur was set aside, and the orders dated 04.09.2009 passed by the Sub-Divisional Officer (Revenue), Raipur and dated 22.04.2009 passed by the Tahsildar, Raipur were maintained.
2. The facts, in brief, are that the disputed property in the present writ petition is an area admeasuring 812 sq. ft., which forms part of Khasra No.582/1, admeasuring 0.029 hectare, situated at Village Bhatagaon, P.H. No.105, RIC Raipur-1, Tahsil and District Raipur (C.G.). According to Respondent No.6, the petitioners encroached upon the aforesaid area of 812 sq. ft. and initially constructed a wall and, thereafter, constructed a house thereon. Against Gajanand, father of Mangal Nirmalkar and Chameli Nirmalkar, Respondent No.6 filed an application under Section 250 of the Code of 1959 before the Tahsildar, Raipur, which was registered as Revenue Case No.9-A/70/Year 2004-05. The

Tahsildar, vide order dated 22.04.2009 (Annexure P-4), allowed the application and directed removal of the alleged illegal encroachment made by the petitioners over the suit property. Thereafter, the petitioners assailed the said order before the Sub-Divisional Officer (Revenue), Raipur (C.G.) in Revenue Appeal No.69-A/70/Year 2008-09, which also came to be dismissed vide order dated 04.09.2009 (Annexure P-3). Thereafter, the petitioners assailed the said order before the Additional Commissioner, Raipur Division, Raipur (C.G.), which was registered as Revenue Appeal Case No.56/A/70/Year 2012-2013. The Additional Commissioner, Raipur Division, Raipur, vide order dated 11.09.2013, allowed the appeal preferred by Gajanand, father of Mangal Nirmalkar and Chameli Nirmalkar and set aside the orders passed by the Tahsildar, Raipur and the Sub-Divisional Officer (Revenue), Raipur. Challenging the same, Respondent No.6 preferred a revision before the Chhattisgarh Board of Revenue, Bilaspur, Circuit Bench at Raipur. It appears that during the pendency of the revision, the said Gajanand and Rajni Bai passed away and their legal representatives were substituted on record, who are the petitioners herein. The learned Board of Revenue, vide the impugned order, allowed the revision and set aside the order passed by the Additional Commissioner, Raipur Division, Raipur (C.G.), while maintaining the orders passed by the Tahsildar, Raipur and the Sub-Divisional Officer (Revenue), Raipur (C.G.), which is assailed in the present writ petition.

3. Learned counsel for the petitioners submits that admittedly, construction of a house has already been taken over the suit property and, therefore, proceedings under Section 250 of the Code of 1959 cannot be initiated for eviction from the suit property, as the said

provision is intended for restoration of possession of land. He places reliance upon the order passed by this Court in WP(227) No.4757 of 2008, dated 18.01.2011. Thus, he submits that the only remedy available to Respondent No.6 is to file a duly constituted civil suit seeking eviction of the petitioners from the suit property. Therefore, the impugned order deserves to be set aside.

4. Learned Counsel for the Respondent No.1 to 5 supports the impugned order.
5. Learned counsel appearing for Respondent No.6 submits that this Court, vide order dated 12.07.2024, stayed the operation and effect of the impugned order and that, during the pendency of the present writ petition, Respondent No.6 has filed a civil suit seeking vacant possession of the suit property before the 3rd Civil Judge, Junior Division, Raipur (C.G.), which has been registered as Civil Suit No.49-A/2025 and is pending consideration. Thus, he submits that appropriate orders may be passed. He has placed on record a copy of the said civil suit along with a covering memo.
6. Heard learned counsel for the parties and perused the materials available on record.
7. Be that as it may, without going into the merits of the case as a civil suit for the vacant possession of the suit property has already been filed by Respondent No.6, the impugned order loses its significance and cannot be executed. Respondent No.6 cannot seek two simultaneous proceedings, one before the Civil Court and another before the Revenue Court for the same relief. In view of the above, on this ground only, this Court is of the opinion that the impugned order cannot be

sustained and is liable to be set aside and the instant petition is thus, disposed of. This order will not come in the way of learned Civil Judge before whom the civil suit is pending consideration who may decide it on its own merits without being influenced by any observation made by this Court.

Sd/-
(Sachin Singh Rajput)
Judge

Prakash