



CGHC010278652021



2026:CGHC:44617

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 4502 of 2021

1 - Babulal S/o Kartik Markeandey Aged About 62 Years R/o Village Tarighat Tahsil And Police Station Rajim, District Gariyaband (C.G.).

2 - Anusuiya W/o Tarachand Markandey Aged About 45 Years R/o Village Tarighat Tahsil And Police Station Rajim, District Gariyaband (C.G.).

3 - Kisun S/o Pusau Markandey Aged About 68 Years R/o Village Tarighat Tahsil And Police Station Rajim, District Gariyaband (C.G.)

... Petitioners

Versus

1 - State of Chhattisgarh Through Principal Secretary, Panchayat And Rurul Development Department Mahanadi Bhawan Naya Raipur District Raipur (C.G.).

2 - The Collector, District Gariyaband (C.G.).

3 - Sub Divisional Officer Revenue Rajim, District Gariyaband (C.G.).

4 - Gram Panchyat Tarighat Through Its Sarpanch, Gram Panchayat Tarighat Janpad Panchayat Fingeshwar, District Gariyaband (C.G.).

... Respondents

(Cause title is downloaded from CIS Periphery.)

For Petitioner	:	Mr. Ravipal Maheshwari, Advocate.
For State	:	Mr. Akhilesh Kumar, G.A.

Hon'ble Mr. Justice Amitendra Kishore Prasad
Order on Board

15/10/2026

1. This petition has been filed against the illegal and arbitrary action on the part of the respondent authorities whereby the respondent No. 4 had issued notice dated 31.07.2026 (Annexure P/1) to the petitioner for eviction of the ownership land of the petitioner and being initiated to construct Gauthan.

2. The petitioners are seeking following reliefs:-

“10.1 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ thereby directing the respondent authorities do not disturb the peaceful possession of the petitioner over his ownership land and also quash the notice dated 31.07.2020.

10.2 Any other relief which this Hon'ble Court may deem fit and proper in favour of the petitioners may kindly be passed.”

3. The brief facts of the case, as projected by the petitioners, are that the petitioner is a resident of Village Tarighat, Janpad Panchayat Fingeshwar, District Gariyaband (C.G.), and claims to have been cultivating the subject land for agricultural purposes for a considerable period. It is stated that one of the petitioner's father had initially occupied the land and developed it for agricultural use and, after his demise, the petitioner continued in possession thereof and has been carrying on agricultural activities for the last 35 years. It is further stated that, on 10.07.2020, a meeting of the

Gram Panchayat was convened, wherein a resolution was passed to take appropriate action for removal of the alleged encroachment made by Rohit Sahu over the land bearing Khasra No. 367. In the same meeting, a decision was also taken to remove the alleged encroachment over the land bearing Khasra No. 1053/1, wherein the names of the persons allegedly occupying approximately four acres of land, namely, Ghasiram, Shyamlal and Domar Ram, were recorded. Subsequently, on 31.07.2020, respondent No. 4 issued a notice to the petitioners alleging that they had unauthorisedly occupied Government land and directing him to remove the alleged encroachment within three days, stating that the land was required for the construction of a *charagah* (grazing ground) in the village. Aggrieved by the said notice, the petitioner has approached this Court seeking appropriate relief.

4. Learned counsel for the petitioner submits that the petitioners have never encroached upon any Government land and is in peaceful possession of his own land. He next contended that the land bearing Khasra Nos. 367 and 1053/1, in respect of which the Gram Panchayat passed a resolution dated 10.07.2020 for removal of alleged encroachments, is situated near the petitioner's land, and neither the petitioner's name was mentioned in the said resolution as an encroacher nor was any decision taken therein to issue notice to him. He further submits that, although the proposed *Gauthan* is to be constructed on

Government land, respondent No. 4, without conducting any enquiry or having any lawful basis, issued the impugned notice dated 31.07.2020 directing the petitioner to remove the alleged encroachment within three days. He, therefore, contended that the impugned notice is arbitrary and has created an apprehension in the mind of the petitioner that he may be unlawfully dispossessed from his own land.

5. Learned counsel for the State submits that the writ petition is not maintainable as the relief of permanent injunction cannot be claimed by the petitioner. To support this submission, counsel for the State would place reliance in the matter of ***Qamruddin vs. Rasul Baksh and Another {1989 SCC OnLine SC 1}*** whereby Hon'ble Supreme Court has held the following in paragraph No.4:-

4. After hearing learned counsel for the parties we are surprised as to how the High Court entertained the writ petition under Article 226 of the Constitution for issuing a writ of certiorari and mandamus. When a suit is filed before a civil court having jurisdiction to entertain the same it may issue interim injunction and the party aggrieved may pursue its remedy before the appellate court and if it is further aggrieved it may invoke the revisional jurisdiction of the High Court under the Code of Civil Procedure. Ordinarily an interlocutory order passed in a civil suit is not amenable to extraordinary jurisdiction of the High Court under Article 226 of the Constitution. More so when the aggrieved party has not exhausted the remedy available to it under the Code of Civil Procedure. The High Court in the instant case failed to realise that the defendant-respondents had not

approached the High Court under Section 115 of the Code of Civil Procedure. The question whether an interim injunction should be granted or not is discretionary in nature, although the exercise of discretion is regulated by the principles set out in Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure. If the order of injunction is passed by a competent court having jurisdiction in the matter, it is not permissible for the High Court under Article 226 of the Constitution to quash the same by issuing a writ of certiorari. In the instant case the learned Single Judge of the High Court further failed to realise that a writ of mandamus could not be issued in this case. A writ of mandamus cannot be issued to a private individual unless he is under a statutory duty to perform a public duty. The dispute involved in the instant case was entirely between two private parties, which could not be a subject matter of writ of mandamus under Article 226 of the Constitution. The learned Single Judge ignored this basic principle of writ jurisdiction conferred on the High Court under Article 226 of the Constitution. There was no occasion or justification for issue of a writ of certiorari or mandamus. The High Court committed serious error of jurisdiction in interfering with the order of the District Judge.

6. Having heard learned counsel for the parties and upon consideration of the submissions made, this Court is of the view that the dispute relating to the subject property can properly be adjudicated under the Civil proceedings by filing a civil suit. In view of that remedy being available to the petitioners before the Civil Court, this Court is not inclined to entertain the present petition for grant of the interim protective directions sought for.

The petitioners are, therefore, at liberty to pursue their remedies before the Trial Court and seek expeditious consideration by filing a civil suit in accordance with law. It is made clear that this Court has not expressed any opinion on the merits of the dispute or on the entitlement of the petitioners to the interim relief sought.

7. Accordingly, the petition stands **disposed of** with the aforesaid observations.

Sd/-

(Amitendra Kishore Prasad)
Judge