

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 5644 of 2008

1. Smt. Shashi Bai Pradhan, W/o Kailash Pradhan, aged about 61 years, r/o Van Gram Gabaud, post office Bar Nawapara, Tahsil Kasdol, P.S. Kasdol, District Raipur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Forest Department, D.K.S. Bhavan, Raipur (CG)
2. Chief Conservator of Forest Forest Department, Jail Road, Raipur (CG)
3. Conservator of Forest, Raipur Circle, Forest Department, Raipur (CG)
4. Divisional Forest Officer, Regular Forest Division, Raipur, District Raipur (CG)
5. Range Officer, Bar Nawapara, Abhyaranya, District Raipur (CG)
6. Deputy Range Officer, Bar Nawapara, Abhyaranya, Raipur (CG)
7. Chaturbhuj Pradhan S/O Sitaram Pradhan, R/O Van Gram Gabaud, District Raipur (CG)

---- Respondents

For petitioner:	Shri S.K. Dadsena, Advocate
For respondent No.1 to 6:	Shri Adhiraj Surana, Dy. G.A.
For respondent No.7:	Shri L.C. Dash, Advocate

SB: Hon'ble Shri Justice Pritinker Diwaker

Order on Board

18.9.2015

1. From the facts it transpired that in the year 1971 a lease in respect of land situated at village Gabaud, Baranwara Sanctuary, District Raipur was granted to the respondent No.7 for a period of 15 years. In the year 1992 the respondent No.7 had filed an application for renewal of said lease. During the pendency of aforesaid renewal application, on 23.7.1994 the respondent No.7 has allegedly issued consent letter (Annexure P-7) in favour of the petitioner's son namely Akshay

Kumar Pradhan and based on this consent letter (सहमति पत्र), said Akshay Kumar submitted an application dated 2.8.1994 (Annexure P-1) for transfer of lease granted to respondent No.7 in his favour. On 22.5.2000 a proposal was sent by the then Superintendent, Barnawapara Sanctuary for transfer of lease in favour of said Akshya Kumar Pradhan and on the basis of this proposal, the petitioner has been granted lease vide Annexure P-9. Sometime in the year 2005 a complaint was made by respondent No.7 before the government authorities that after expiry of term of lease, he has applied for renewal but the authorities instead of renewing his lease, transferred the same in favour of the petitioner. The Superintendent, Barnawapara Sanctuary conducted detailed enquiry on the said complaint and submitted his report. Thereafter, the Divisional Forest Officer, Raipur vide order dated 22.4.2006 (Annexure P-3) cancelled the lease granted in favour of the petitioner by holding that despite respondent No.7 being alive, the lease has been transferred to the petitioner in an illegal manner, whereas it is settled position that till the original lessee is alive, lease cannot be transferred in favour of any person and even after the death of original lessee, lease is to be transferred in favour of the legal heir of the deceased lessee.

The order passed by the Divisional Forest Officer was challenged by the petitioner before the Conservator of Forest, Raipur by filing a revision and the same has also been dismissed vide order dated 22.6.2007 against which an appeal was preferred by the petitioner before the Chief Conservator of Forest which has also been dismissed vide order dated 22.9.2008.

In this petition filed under Article 227 of the Constitution of India, the petitioner has assailed the order dated 22.9.2008 passed

by the Chief Conservator of Forest, Raipur affirming the orders dated 22.6.2007 & 22.4.2006 passed by the Conservator of Forest and the Divisional Forest Officer respectively.

2. Counsel for the petitioner submits that the lease granted to the petitioner on 15.11.2000 was the fresh lease and therefore question of cancelling the same at the instance of respondent No.7 does not arise. He further submits that lease granted in favour of respondent No.7 had expired in the year 1992 itself and unless it is renewed, respondent No.7 has no right to get the lease in his favour. He further submits that as the lease granted to the petitioner was for a period of fifteen years, therefore, it could not have been cancelled.
3. Counsel for the respondent No.7 has filed his reply and took a stand that the petitioner's son had obtained his signature in the consent letter on the pretext that he would get his lease renewed but instead of doing so he submitted an application stating therein that respondent No.7 has no objection if the lease is transferred in his favour i.e. the petitioner's son.
4. Counsel for the State submits that respondent No.7 had no authority to accord consent for transfer of lease in favour of any person including the petitioner's son. He further submits that in the detailed enquiry it was found that the said consent was *de hors* the principles of law. He further submits that as per rules, lease could have been granted only for a period of 15 years whereas in the case of the petitioner the period of lease has been specifically mentioned as 07 years i.e. from 15.11.2000 to 25.1.2007. He further submits that in the enquiry due opportunity was afforded to the petitioner and thereafter only a conclusion was drawn by the authorities that the lease could not have been granted in favour of the petitioner. He further submits

that even assuming that respondent No.7 had consented for transfer of lease, but the same was in respect of petitioner's son and not for the petitioner and therefore the question of granting lease to the petitioner does not arise. He further submits that even as per Vangram Staphana Niyam, 1997 transfer of lease during the lifetime of original lessee is prohibited. He further submits that stand taken by the petitioner is highly improbable because according to the petitioner, her husband was not mentally sound, her son was minor and therefore with the mutual understanding it was decided to have lease in favour of respondent No.7. He further submits that respondent No.7 is resident of same village where the land in question is situated, whereas the petitioner got married elsewhere and had shown her temporary residence at village Gabaud just to get the benefit.

5. I have heard counsel for the parties and perused the impugned orders.
6. Record of the case goes to show that upon receiving complaint of respondent No.7, the Superintendent concerned after conducting a detailed enquiry submitted his report and based on which the Divisional Forest Officer passed the order dated 19.4.2006 cancelling the lease granted/ transferred to the petitioner on the ground that even on the basis of consent of respondent No.7, lease could not have been transferred in favour of the petitioner. It has been further held that as per Rule 6 (a) of the Vangram Staphana Niyam, 1977, the land could be allotted only to such person who is permanent resident of the village where land is situated, whereas the petitioner does not appear to be permanent resident of village Gabaod. Therefore, the alleged transfer of lease in favour of the petitioner is

de-hors the rule. This order was affirmed by the Conservator of Forest and also by the Chief Conservator of Forest by passing reasoned orders. Thus, it is clear that while passing the impugned orders the authorities below have assigned sufficient and cogent reasons in support of their orders and therefore it cannot be said that there is an error apparent on the face of record warranting interference of this Court in exercise of its writ jurisdiction.

7. Consequently, the petition has no substance and the same is liable to be and is hereby dismissed.

Sd/-
(Pritinker Diwaker)
Judge

roshan