

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 196 of 2012**

1. Benjamin Kumar Li, S/o (late) Mangal Kumar Li, aged about 74 years.
2. Somaru Khushwaha, S/o Shivmangal Prasad Khushwaha, aged about 80 years.
3. Janardan Singh S/o Dalel, aged about 55 years.
4. Harigovind Dubey S/o (late) Bhikhari Dubey, aged about 85 years.
5. Smt. Dhankunwar Chaubey, D/o Kashi Dubey, aged about 65 years.
6. Ramratan Khushwaha, S/o Vishwanath Khushwaha, aged about 45 years.
7. Ramdhyan S/o Munni Sav, aged about 70 years.

All residents of Majhlipara, village Sargawan, Tehsil Ambikapur,
District Sarguja

---- **Petitioners****Versus**

1. State Of Chhattisgarh Through the Secretary, Department of Revenue, mantralaya, DKS Bhavan, Raipur, Chhattisgarh.
2. Collector Ambikapur Distt. Sarguja Cg
3. Sub Divisional Officer (Revenue), Tehsil Ambikapur, Distt. Sarguja Cg
4. Tehsildar, Tehsil Ambikapur, District Sarguja, C.G.
5. Divisional Forest Officer, South Sarguja Forest Range, Ambikapur Distt. Sarguja Cg

---- **Respondents**

For Petitioners	:	Shri Shishir Dixit, Advocate.
For Respondents 1 to 5.	:	Shri Adhiraj Surana, Dy. G.A.

Hon'ble Shri Justice Pritinker Diwaker**Order On Board****03/09/2015**

1. The petitioners appear to have filed an application before the Gram Sabha under the Forest Rights Act ("Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as 'the Act. 2006') for grant of lease of the land in question. During the pendency of their application when an attempt

was made by the forest authority to dispossess them, this petition has been filed.

2. While entertaining the writ petition, on 06.02.2012 interim protection was granted in favour of the petitioners directing respondents not to evict them from the forest land under the occupation of the petitioners.
3. Counsel for the petitioners submits that during the pendency of the petition, the applications filed by the petitioners have been decided by the Gram Sabha vide order dated 20.08.2012 and against the said order petitioner Nos. 1, 2, 4 & 5 have already preferred an appeal before the Sub Divisional Level Committee under Rule 14 of Act, 2006. He further submits that remaining petitioner Nos. 3, 6 & 7 may be permitted to withdraw this petition with liberty to file an appeal before the Sub Divisional Level Committee. He also submits that as the petitioners were prosecuting present writ petition, their appeal(s) may be treated as time barred, and therefore, appellate authority may be directed to decide the said appeal(s) and the application(s) to be filed by the remaining petitioners ignoring the point of limitation. It has also been argued that stay operating in favour of the petitioners may be directed to continue till they file appeal(s) along with an application(s) for interim relief and such application(s) for interim relief, are decided. In respect of those petitioners who have already preferred appeal(s), it is prayed that protective order may also be granted in their favour for one month till they file application for interim relief before the appellate authority.
4. State counsel has no objection to the proposition put forth by the petitioners.
5. The petitioners are accordingly permitted to withdraw this petition with the aforesaid liberty.

6. In the eventuality of filing appeal(s) before the appellate authority by the petitioner Nos. 3, 6 & 7 assailing the order dated 20.08.2012 within four weeks from today, it is expected from the appellate authority to decide the same ignoring the point of limitation. The petitioners 3, 6 & 7 would be further at liberty to file application seeking interim protection from the appellate authority and it would be for the appellate authority to decide those application(s) in accordance with law.
7. Till one month from today the interim order granted in favour of the petitioners on 06.02.2012 shall remain in operation.
8. It is made clear that nothing has been observed on merit aspects of the case and the competent authority would be at liberty to decide the appeal(s) and any other such application(s) strictly in accordance with law.
9. The petition is accordingly dismissed as withdrawn with the aforesaid liberty.

Sd/-

(Pritinker Diwaker)
JUDGE