

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No.1765 of 2015

- 1. Ramkhilawan Dadsena S/o Ghunaharam, Aged About 65 Years R/o Village Pathariya, District Mungeli, (Chhattisgarh)
- 2. Ramgopal Dadsena, S/o Shri Ramkhilawan Dadsena, Aged About 42 Years R/o Village Patharia, District Mungeli, (Chhattisgarh)

---- Petitioners

Versus

- 1. State Of Chhattisgarh Through Secretary, Department Of Revenue, Chhattisgarh Government, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, (Chhattisgarh)
- 2. Collector, District Mungeli, (Chhattisgarh)
- 3. Tahsildar, Patharia, District Mungeli, (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Manish Nigam, Advocate.
For Respondents/State	:	Shri Satish Gupta, Government Advocate.

Order On Board

01/10/2015

Heard.

1. Learned counsel for the petitioners submits that the petitioner No.2 has been granted patta (lease) of a residential plot by order of Naib Tahsildar, Mungeli way back in the year 1989 vide Annexure P/2.

One Chandra Kumar Dadsena filed the petition before this Court registered as WP(C) No.803 of 2015 with the grievance that the petitioner No.1 has encroached upon Government land. That petition was dismissed as withdrawn with the observations that respondent No.2 therein (Collector Mungeli) shall take steps in accordance with law.

2. The grievance of the petitioners is that even though this Court, while finally disposing of the earlier writ petition, made it clear that the Court has observed nothing on merits of the case and the competent authority has to act strictly in accordance with law, now the petitioner

has been issued notice to vacate the land without drawing any proceedings and without decision on the issue whether or not the petitioners are in illegal possession.

3. The earlier writ petition was dismissed as withdrawn. This Court made it very clear that no observations has been made on merits of the case and the competent authority has to act strictly in accordance with law. Therefore, if there is any allegation of petitioners having encroached upon Government land, the proper course of action required to be followed is one prescribed under Section 248 of the Land Revenue Code. The Tahsildar has to draw proceedings under Section 248 of the Land Revenue Code allow the parties to lead oral and documentary evidence and then pass appropriate orders in accordance with law. It is only when it is held that the petitioners have encroached upon Government land that an order of eviction may follow.

4. This petition is accordingly disposed off.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E