

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Review Petition No. 194 of 2013**

1. Ajay Janghel S/o Chaituram Janghel Aged About 35 Years R/o Tathar (Gandai), P.O. & P.S. Gandai, Civil & Revenue District Rajnandgaon Gandai 491 888 (C.G.)
2. Sunil Jain S/o Lalchand Jain Aged About 30 Years R/o Village Gandai, P.O. & P.S. Gandai, Civil & Revenue District Rajnandgaon Gandai 491 888 (C.G.)

---- Petitioners

Versus

1. State Of Chhattisgarh Thru- The Secretary, Panchayat Avam Gramin Vikas Vibhag, DKS Bhawan, Raipur C.G., Now At Mahanadi Bhawan, Naya Raipur, P.O. Mantralaya, P.S. Rakhi, Civil & Revenue District Raipur Naya Raipur 492 002 (CG)
2. Nagar Panchayat Gandai Thru- Its Chief Executive Officer, Nagar Panchayat Gandai, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.
3. Shivendar Das Vaishnav S/o Amanat Das Vaishnav Aged About 58 Years R/o Ward No. 6, Gandai, P.O. & P.S. Gandai, Distt. Rajnandgaon C.G.

---- Respondents

And**Review Petition No. 195 of 2013**

1. Raju Jaiswal S/o Bal Kishan Jaiswal Aged About 35 Years R/o Ward No. 7, Gandai, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.
2. Suraj Singh Jagat S/o Khidmat Singh Aged About 75 Years R/o Village Gandai, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.
3. Naresh Yadav S/o Late Laxminarayan Yadav Aged About 35 Years R/o Village Dhamdha, P.O. & P.S. Dhamdha, Civil & Revenue Distt. Rajnandgaon C.G.
4. Saleem Memon S/o Rajjak Memon Aged About 40 Years R/o Village Gandai, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.
5. Smt. Radha Bai Yadav W/o P.C. Lal Yadav Aged About 54 Years R/o Village Gandai, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.
6. Sudarshan Rodge S/o Narayan Rodge Aged About 33 Years R/o Village Gandai, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.
7. Harun Memon S/o Kasim Memon Aged About 49 Years R/o Village Gandai, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.

---- Petitioners

Vs

1. State Of Chhattisgarh Thru- The Secretary, Panchayat Avam Gramin Vikas Vibhag, DKS Bhawan, Raipur C.G., Now At Mahanadi Bhawan, Naya Raipur, P.O. Mantralaya, P.S. Rakhi, (CG)
2. Nagar Panchayat Gandai Thru- Its Chief Executive Officer, Nagar Panchayat Gandai, P.O. & P.S. Gandai, Distt. Rajnandgaon (C.G.)
3. Shivendar Das Vaishnav S/o Amanat Das Vaishnav Aged About 58 Years R/o Ward No. 6, Gandai, P.O. & P.S. Gandai, Distt. Rajnandgaon C.G.

---- Respondents

And

Review Petition No. 214 of 2013

1. Jeevan Lal Sahu S/o Dhanesh Sahu Aged About 25 Years R/o Achanakpur (Gandai), P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon (C.G.)
2. Ravi Yadav S/o Nanda Yadav Aged About 25 Years R/o Gandai, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.
3. Sarita Namdeo W/o Jugal Kishore Namdeo Aged About 40 Years R/o Village Gandai, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.
4. Bodhraj Dewangan S/o Vishal Dewangan Aged About 33 Years R/o Village Dhaba, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.

---- Petitioners

Vs

1. State Of Chhattisgarh Thru- The Secretary, Panchayat Avam Gramin Vikas Vibhag, DKS Bhawan, Raipur C.G., Now At Mahanadi Bhawan, Naya Raipur, P.O. Mandralaya, P.S. Rakhi, Distt. Raipur (C.G.)
2. Nagar Panchayat Gandai Thru- Its Chief Executive Officer, Nagar Panchayat Gandai, P.O. & P.S. Gandai, Civil & Revenue Distt. Rajnandgaon (C.G.)
3. Shivendar Das Vaishnav S/o Amanat Das Vaishnav Aged About 58 Years R/o Ward No. 6, Gandai, P.O. And P.S. Gandai, Civil & Revenue Distt. Rajnandgaon C.G.

---- Respondents

And

MCC No. 1114 of 2013

- Shivendra Das Vaishnav S/o Shriramannat Das Vaishnav Aged About 55 Years R/o Ward No. 6, Gandai, P.S. Gandai, Distt. Rajnandgaon C.G.

---- Petitioner

Vs

1. State Of Chhattisgarh Thru- The Secretary, Panchayat Avam Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, New Raipur (C.G.)
2. Nagar Panchayat Gandai Thru- The Chief Executive Officer, Nagar Panchayat Gandai, Distt. Rajnandgaon (C.G.)

---- Respondents

For the petitioners	:	Shri Vivek Chopda, Advocate
For respondent No.1	:	Shri Adhiraj Surana, Dy. GA
For respondent No.2	:	Shri Khitij Sharma, Advocate
For respondent No.3	:	Shri Anup Majumdar, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

Per Prashant Kumar Mishra, J

23.06.2016

Review Petitions No.194 of 2013, 195 of 2013, 214 of 2013 and MCC NO.1114 of 2013 are being disposed of by this common order.

2. Heard learned counsel for the parties.

3. These review petitions are arising out of order dated 30.6.2011 passed in Writ Appeal No.399/2010. The respondent Shivendar Das Vaishnav preferred a writ petition for the following reliefs:

“10.1) That the impugned auction notices dated 19.3.2010 and 29.3.2010 issued by the respondent No.2 be set aside/quashed.

10.2) That the respondent No.2 be directed to execute the registry of the shop No.14 in favour of the petitioner and not to deprive him from carrying on the business.

10.3) That the respondent No.2 be directed to not to auction the shops in question as per the impugned notice dated 19.3.2010 & 29.3.2010 and not to dispossess the petitioner from his shop.

10.4) Any other relief may also be granted to the petitione which this Ho'ble Court may deem fit and proper in the facts and circumstances of the case.”

4. The writ petition came to be dismissed in the presence of both the parties on 27.10.2010. Feeling aggrieved by the said order, the petitioner preferred writ appeal No.399/2010 which was heard finally on 21.6.2011 and the Order was delivered on 30.6.2011. The hearing was concluded in the presence of counsel for the Nagar Panchayat. By the order under review, the Division Bench concluded that the entire action of the Nagar Panchayat in proceedings to issue auction notice, is arbitrary and discriminatory. As a consequence, writ appeal was allowed and the auction dated 19.3.2010 together with corrigendum dated 29.3.2010 were quashed. The Nagar Panchayat was also directed to process the case of the respondent Shivendra Das Vaishnav (writ petitioner) for appropriate decision in the light of the observation made by the Court. Against this order in writ appeal, the Nagar Panchayat has not preferred any review application nor it has informed the Division Bench that the auction proceedings has already been concluded and the review petitioners are the successful bidders.

5. It is not a case where the review application is filed on the basis of any subsequent event or for any error apparent on the face of the record. Merely because some bidders were already successful in the auction process, findings of arbitrary and discriminatory action by the Nagar Panchayat is not to be interfered with. If the auction has been found to be arbitrary and there is no error on the face of the record, the petitioner cannot be

permitted to raise fresh ground under the garb of review to argue the entire writ appeal.

6. It is well settled principle of law that under the garb of review petition, the petitioner should not be permitted to argue the entire case afresh, which would amount to convert the review petition into an appeal and the same is not permissible in law. (See: Meera Bhanjan v. Smt. Nirmal Kumar Chowdhary, AIR 1995 SC 455, Lily Thomas etc. v. Union of India and others, AIR 2000 SC 1650, Ajit Kumar Rath v. State of Orissa and others, AIR 2000 SC 85, Government of T.N. & Others v. M. Ananchu Asari and others, (2005) 2 SCC 332, and Kerala State Electricity Board v. Hitech Electrothermicism & Hydropower Ltd. and others, (2005) 6 SCC 651.

7. For the aforesaid reasons, we do not find any substance in the review applications as well as in the MCC. Accordingly, all the review petitions as well as the MCC are dismissed.

Sd/-
(Prashant Kumar Mishra)
JUDGE

Sd/-
(Chandra Bhushan Bajpai)
JUDGE