

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (227) NO. 652 OF 2016

Lalit Kumar, S/o Shri Thakur Ram, Caste- Nayak, aged about 33 years,
R/o Village Khapari, Police Station & Tahsil Pamgarh, Civil & Revenue
District Janjgir-Champa (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through the Collector Janjgir, Civil & Revenue District Janjgir-Champa (C.G.)
2. Sub Divisional Officer (Revenue) Pamgarh, Civil & Revenue District Janjgir-Champa (C.G.)
3. Tahsildar, Pamgarh, Civil & Revenue District Janjgir-Champa (C.G.)

... Respondents

For Petitioner	:	Mr. Paras Mani Shrivastava, Advocate.
For Respondents	:	Mr. O.P. Sahu, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/10/2016

1. The present petition under Section 227 of the Constitution of India has been filed by the Petitioner assailing the order dated 28.6.2016 passed by the Civil Judge, Class-II, Pamgarh in Civil Suit No. 34-A/2015 wherein the application under Order 39 Rule 1 and 2 of CPC has been rejected, and also the order dated 16.9.2016 whereby the Misc. Appeal No. 2 of 2016 preferred by the Petitioner against the order dated 28.6.2016 also has been rejected by the Second Additional District Judge, Janjgir.
2. Counsel for the Petitioner submits that the Court below has not appreciated the facts in its proper perspective to the extent that the name of the Petitioner was entered in the revenue records till the filing of the civil suit and it is only thereafter that the name of the Petitioner has been replaced and the property has been shown to be as government land. He further submits that the Court below ought to have granted some

protection to the Petitioner who is in possession of the said property for long, and thus prayed for the quashment of the two impugned orders.

3. Counsel for the State however opposes the petition.

4. With the limited scope of interference permitted while exercising the supervisory jurisdiction under Article 227 of the Constitution of India, this Court has only to see whether any blatant error of law or perverse finding of fact has been passed by the Court below. In the present case, in the two orders, i.e., the order of the Trial Court dated 28.6.2016 and the order of lower Appellate Court dated 16.9.2016, there is a categorical finding of fact that as on date the entries made in the revenue records reflecting the disputed property to be in the name of government. Secondly, according to the two Courts below the patta which was issued in favour of the Petitioner seems to have been fraudulently obtained as the disputed land could not under any provision of law have been released by way of a patta to any individual.

5. Thus, in the opinion of this Court the Petitioner has not been able to establish before the Courts below the three ingredients, i.e., prima facie proof, balance of convenience and irreparable loss in favour of the Petitioner while deciding the said application, in the absence of which the application has been rightly rejected by giving a reasoned speaking order.

6. This Court finds that no strong case has been made out by the Petitioner calling for an interference with the two impugned orders. The petition thus being devoid of merit the same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge