

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1647 of 2016

- Roop Singh Chandra S/o Late Shri Shyam Sunder Chandra, Aged About 86 Years R/o Ward No. 8, Village Ghoghari, Tahsil Malkharoda, District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat & Rural Development, Mahanadi Bhavan Mantralaya, Raipur Chhattisgarh
2. Gram Panchayat Ghoghari, Acting Through Secretary, Janpad Panchayat Malkjaroda, District Janjgir Champa Chhattisgarh
3. Sarpanch, Gram Panchayat Ghoghari, Janpad Panchayat Malkharoda, District Janjgir Champa Chhattisgarh

---- Respondent

For Petitioner	Shri Ramesh Nayak, Advocate
For Respondent-State	Shri P. K. Bhaduri, GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

04/07/2016

1. The petitioner is aggrieved by notice issued to him by Gram Panchayat Ghoghari, Janpad Panchayat Malkharoda under Section 56 (2) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (for short 'the Adhiniyam, 1993') directing him to remove encroachment from the government land.
2. Learned counsel for the petitioner would argue that the petitioner is in possession of Khasra No.499/8 under a certificate of occupation/lease granted by the Additional Tahsildar, Sakti on 22.04.1988, therefore, the

order is *ex facie* arbitrary and illegal.

3. Plain reading of the notice (Annexure P-3) would indicate that Khasra No.499/8 is not mentioned. Moreover under Section 56 of the Adhiniyam, 1993 if upon direction by gram panchayat, an encroacher fails to vacate the encroachment, the gram panchayat can refer the matter to Tahsildar for removal of encroachment in accordance with the provisions contained under the Chhattisgarh Land Revenue Code, 1959 (for short 'the Code, 1959').
4. In view of the statutory provisions, the writ petition is disposed of with a direction that the respondent No.2, Gram Panchayat Ghoghari shall refer the matter to the concerned Tahsildar within a period of 30 days from today and thereafter the Tahsildar shall initiate proceedings under the relevant provisions of the Code, 1959 and complete the same within a period of next 3 months.
5. Till the matter is heard and decided by the Tahsildar after giving opportunity of hearing to the petitioner, the petitioner shall not be evicted/dispossessed from an area of 1500 sq. feet bearing Khasra No.499/8. If need be, the Tahsildar may also proceed to demarcate the area.
6. It is made clear, if the Tahsildar finds that the petitioner has encroached the government land, it would proceed for removal of encroachment in accordance with law.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA