

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (PIL) No. 76 of 2017

- Kamaljeet Sharma S/o Shri Narendra Kumar Sharma Aged About 30 Years R/o Transport Nagar, Korba, P. S. Korba, District Korba (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralay, New Raipur, District Raipur (Chhattisgarh)
2. The Secretary, Department Of Forest, Mahanadi Bhawan, Mantralay, New Raipur, District Raipur (Chhattisgarh)
3. The Collector, Korba, District Korba, Chhattisgarh.
4. Municipal Corporation, Korba, Through The Commissioner District Korba (Chhattisgarh)
5. The Sub Divisional Officer (Revenue), Korba, District Korba, Chhattisgarh.
6. The Superintendent Of Police, Korba, District Korba, Chhattisgarh.
7. The Commissioner, Municipal Corporation Korba, Chhattisgarh.
8. Smt. Anjali Agrawal W/o Aashish Agrawal, Aged About 30 Years R/o Transport Nagar, Korba, Distirct Korba Chhattisgarh.

---- Respondents

And

Writ Petition (C) No. 277 of 2017

- Santosh Kumar Goyal S/o Late Techchand Agrawal, Aged About 58 Years R/o Behind City Kotwali, P.S. Korba, District Korba, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
2. State Of Chhattisgarh, Through The Secretay, Department Of Forest, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
3. The Collector, Korba, District Korba, (Chhattisgarh)
4. The Commissioner, Municipal Corporation, Korba, District Korba, (Chhattisgarh)
5. The Sub Divisional Officer (Revenue), Korba, District Korba, (Chhattisgarh)
6. The Tahsildar, Korba, District Korba, (Chhattisgarh)
7. The Revenue Inspector, Patwari Halka No. 09, Through Tahsildar, Korba, District Korba, (Chhattisgarh)
8. The Patwari, Patwari Halka No. 09, Through Tahsildar, Korba, District Korba, (Chhattisgarh)
9. Aashish Agrawal, S/o Subhash Chand Agrawal, Aged About 33 Years R/o Transport Nagar, Korba, District Korba, (Chhattisgarh)
10. Smt. Anjali Agrawal, W/o Aashish Agrawal, Aged About 30 Years R/o Transport Nagar, Korba, District Korba, (Chhattisgarh)

---- Respondents

For Petitioner in WP(PIL)	:	Shri Jitendra Pali, Advocate
For Petitioner in WP(C)	:	Shri Sandeep Dubey, Advocate
For Respondents/State	:	Shri Y.S. Thakur, Additional Advocate General
For Contesting Respondent	:	Shri Prateek Sharma, Advocate

Hon'ble Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

14.07.2017

1. We have heard the learned counsel appearing for the Petitioners in the captioned Writ Petitions, of which one is styled as Public Interest Litigation. We have also heard the learned counsel for the contesting respondent and the learned Additional Advocate General.
2. Writ Petition (C) No. 277 of 2017 was instituted in January, 2017. Initially there was an order by the learned Single Judge directing an enquiry to be conducted. That was vacated on a review application at the instance of private respondent on the plea that she was not heard.
3. Sometime in April, 2017, the captioned Public Interest Litigation was filed making allegations of collusion between the officers of the district administration and the private respondent. It is pleaded that the resultant situation is that forest land has been treated as land available for activities of the private respondent.
4. As of now, we see that there is an enquiry report at the district level. The contents of that report is impeached by the learned counsel for the petitioners in both the writ petitions by submitting that the report has been prepared without due enquiry and is itself a result of collusion. It would be inappropriate for the writ Court to make any endeavor to adjudicate on questions relating to the nature of property or title to land. The questions whether the land in question is forest land or even

otherwise, Government land, is a matter which should primarily be in the domain of the Government.

5. In the aforesaid view of the matter, it is necessary in the larger public interest that the Secretary, Department of Forest, Government of Chhattisgarh, looks into the report prepared by the district administration following the enquiry which is stated to have been conducted. If that officer is of the view that the Revenue Department also needs to be involved, the file could be made over for consideration of the Secretary in the Revenue Department as well. Ultimately, if it becomes necessary that the file should gain attention at still higher level of the Chief Secretary to the Government, such proceeding may be taken recourse to. However, it has to be ensured that no action shall be taken adverse to the interest of any occupant, including the private respondent herein, otherwise than by due process of law and without affording any opportunity of pre-decisional hearing. Having regard to the fact that this judgment is being issued in two writ petitions by persons who did not claim any independent personal right in the land in question and in view of the submissions made on their behalf touching the files relating to the land in question, if either or both of them approaches the Secretary to the Department of Forest, they may also be given an opportunity of hearing before a final decision is taken. It is clarified that this judgment does not speak on any of the contentions, on the merits on the basis of facts.
6. The writ petitions are ordered accordingly, leaving open all issues.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge