

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Judgment Reserved on: 13/09/2017****Judgment Delivered on : 19/09/2017****Writ Petition (PIL) No. 77 of 2017**

Atul Dubey S/o Late V. N. Dubey, Aged About 48 Years R/o 18,
Rekhankan Colony, Manendragarh Road, Ambikapur, District
Surguja (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Revenue And
Disaster Management Department, Mahanadi Bhawan, Mantralaya
New Raipur (Chhattisgarh)
2. The Collector, Ambikapur, District Surguja, (Chhattisgarh)
3. The Tahsildar, Ambikapur, District Surguja, (Chhattisgarh)
4. Poonam Chand Agrawal S/o Late Ramnivas Agrawal, Aged About
57 Years R/o Sangam Chowk, Ambikapur, District Surguja
(Chhattisgarh)
5. Naresh Kumar Agrawal S/o Late Ramnivas Agrawal, Aged About
52 Years R/o Jawahar Market Colony, Banaras Chowk, Ambikapur,
District Surguja, (Chhattisgarh)
6. Ashok Kumar Agrawal S/o Late Ramnivas Agrawal, Aged About 50
Years R/o Jawahar Market Colony, Banaras Chowk, Ambikapur,
District Surguja, (Chhattisgarh)
7. Subhash Kumar Agrawal S/o Late Ramnivas Agrawal, Aged About
40 Years R/o Jawahar Market Colony, Banaras Chowk, Ambikapur,
District Surguja, (Chhattisgarh)
8. Shiv Agrawal S/o Naresh Agrawal, Aged About 26 Years R/o
Jawahar Market Colony, Banaras Chowk, Ambikapur, District
Surguja, (Chhattisgarh)

9. Prakash Kumar Agrawal S/o Ashok Kumar Agrawal, Aged About 23 Years R/o Sangam Chowk, Ambikapur, District Surguja (Chhattisgarh)
10. Deepak Agrawal S/o Poonam Chand Agrawal, Aged About 26 Years R/o Sangam Chowk, Ambikapur, District Surguja (Chhattisgarh)
11. Vasundhara City Plex, Namnakala, Through Its Partner Krishnanand Singh S/o Late Rajendra Bahadur Singh, Resident of Sattipara, Ambikapur, Tahsil Ambikapur, District Surguja, (Chhattisgarh)
12. The Assistant Director, Nagar Tatha Gram Nivesh, Regional Office, Ambikapur, District Surguja, (Chhattisgarh)

---- Respondents

For Petitioner	: Shri Rahul Mishra, Advocate.
For Respondent/State	: Shri Y.S.Thakur, Additional Advocate General and Shri UNS Deo, Government Advocate
For Private Respondents	: Shri Sunil Otwani, Shri S.C.Verma and Shri Manoj Paranjpe, Advocates.

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

C.A.V. Order

Per Thottathil B. Radhakrishnan, Chief Justice

1. This writ petition is filed as a Public Interest Litigation.
2. Heard the learned counsel for the Petitioner, the learned Additional Advocate General and the learned counsel for the contesting private Respondents.
3. The Petitioner pleads that the land in question referred to in the writ petition is recorded as 'Forest Land' in the name of '*Gair Majrua Sarkar*' and that the plea of the private Respondents that the said land was settled in the name of Maharaja Ramanuj Sharan Singh Deo, son of Maharaja Raghunath

Sharan Singh Deo, cannot be countenanced since, according to the Petitioner, the land in question was never settled in the name of Maharaja Ramanuj Sharan Singh Deo as per *Adhikar Abhilekh Panji* issued by the State Government. The Petitioner proceeds to contend that different transactions leading from Maharaja Ramanuj Sharan Singh Deo has later on brought the property into the custody of Respondents No. 4 to 10 who are constructing a colony in the name of Vasundhara Ramniwas Nagar Colony over land of around 16 acres which, according to the Petitioner, is "Forest Government Land". Respondent No. 11 is alleged to be constructing a Cinema Theater in violation of the provisions of Chhattisgarh Nagar Tatha Gram Nivesh Adhiniyam, 1973 and Chhattisgarh Bhumi Vikas Niyam, 1984. It appears that the Petitioner attempted to levy a challenge to the aforesaid situation before the Single Bench, which however turned down the plea that the Petitioner had no personal interest in the matter. Utilizing that situation, this matter is instituted as a Public Interest Litigation. The Petitioner pleads that different provisions of law have been violated and the activities being carried on by the private Respondents are in violation of the laws governing the protection of forest lands and also the Government lands. The Petitioner therefore seeks a direction to the official Respondents to act in accordance with the directions issued by the Hon'ble Supreme Court in ***Jagpal Singh v. State of Punjab***; (2011) 11 SCC 396, and the State Government's Circular dated 10.03.2011 and take immediate action for eviction of the private Respondents from the Government forest lands and restore the possession of the land in favour of the Government.

4. The private Respondents have, through their separate returns, primarily pointed out that while there is absolutely no reason, on facts, for the Petitioner to raise contentions as has been done by him, he had instituted different writ petitions including public interest litigations and also writ appeals

in relation to the constructions and possession of the private Respondents. A list of 12 cases has been generated as having been filed either by the Petitioner or against him in relation to the different matters to point out that the Petitioner appears to be repeatedly scouting this Court by pursuing baseless litigations against the private Respondents.

5. Perusing the pleadings in the writ petition and returns filed by the private Respondents, the question that emerges at the outset is as to whether the issues relating to the lands mentioned in the writ petition are to be subjected to adjudication in writ jurisdiction. If the Petitioner were to assert that the lands are forest lands, no statutory authority involved in the conservation of the forest lands is party to this writ petition. The mere impleadment of the Collector and the Tahsildar apart from the State of Chhattisgarh through its Secretary in the Revenue and Disaster Management Department will not lead to issuance of any directions by this Court on the premise that any duly constituted authority or official of governance has failed to perform any statutory or public duty. It is equally so as regards Respondent No. 12, the Assistant Director, Nagar Tatha Gram Nivesh. The jurisdiction under Article 226 of the Constitution, which may be extended to deal with public interest litigations, are always to be guided by well-settled principles which lay down the parameters for exercise of jurisdiction in public interest. It cannot be converted to an opportunity to agitate issues of such nature where the Petitioner has not shown that he has made complaints to any statutory authority, but have not been considered duly. No directions could be granted to any authority in governance for conservation of any land which the Petitioner alleges as forest land, in the absence of the jurisdictional officials being sued for any specific relief in that regard. The pleading of the private Respondent is also to the effect that this is not a matter in which the Petitioner should be permitted to agitate the issue in public interest. It may

be open to the Petitioner to take recourse to due procedure and opportunity to bring his allegations to the notice of the competent officials, departments or authorities bestowed with statutory public duties as regards protection and conservation of forest and other Government lands.

6. For the aforesaid reasons, we do not find any ground to entertain this public interest litigation and resultantly this writ petition is dismissed without prejudice to the Petitioner seeking recourse to any proceedings as mentioned in the immediately preceding paragraph.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE