

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No. 2233 of 2017

1. Basant Kumar Koshale S/o Shri Makhan Koshale, Aged About 65 Years R/o Village Bodara, Post Rasani, Police Station & Tahsil Arang, District Raipur, Chhattisgarh.
2. Ganeshram Jangde, S/o Shri Shivnath Jangde, Aged About 65 Years R/o Village Bodara, Post Rasani, Police Station & Tahsil Arang, District Raipur, Chhattisgarh.

---- Petitioners

Versus

1. State of Chhattisgarh Through The Secretary, Revenue Department, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. State of Chhattisgarh Through The Secretary, Forest Department, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
3. Divisional Forest Officer, (D F O) Division Raipur, Aranya Bhawan, Medical Collage Road, Raipur, Chhattisgarh.
4. Ranger Range Arang, District Raipur, Chhattisgarh.
5. Collector, Raipur, District Raipur, Chhattisgarh.
6. Tahsildar Tahsil Arang, District Raipur, Chhattisgarh.

---- Respondents

For Petitioners	:	Smt. Meena Shastri, Advocate
For Respondents/State	:	Shri Arun Sao, Dy. Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

04.09.2017

(1) This writ petition has been filed questioning the order dated 28.11.2016 passed by Tahsildar by which the said Revenue Authority has directed the eviction of the petitioner from the Government Land.

(2) Learned counsel for the petitioner would submit that the aforesaid land is not the Government land and, as such, the provisions of the Land Revenue Code, 1959 is not attracted in the present case and, therefore, this Court should step in exercise of power for quashing the order dated 28.11.2016. She placed reliance upon the judgment of Supreme Court in the matter of Municipal Council, Sujampur Vs. Surinder Kumar¹ in support of his submissions.

¹ (2006) 5 SCC 173

(3) On being asked, counsel for the petitioner submits that since the order is without jurisdiction and without authority of law and, therefore, this Court should exercise its power for quashing the order dated 28.11.2016.

(4) Counsel for the State submits that the impugned order is appealable under Section 44(1) of the Land Revenue Code, 1959 and question of jurisdiction raised can be considered by the competent authority where as this is not the extraordinary case where High Court should step in exercising its power for quashing the order dated 28.11.2016.

(5) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(6) Issue of jurisdiction can very well be agitated before the appellate authority and there is no constitutional command that each and every petition having alternative remedy and by passing that remedy should be heard by the Constitutional Court as the plea raised by the petitioner factually as well as legally can very well be considered by the appellate authority and, therefore, the writ petition deserves to be dismissed as having efficacious statutory alternative remedy under the provisions of Chhattisgarh Land Revenue Code, 1959.

(7) Accordingly, the writ petition is dismissed as having alternative remedy of appeal. However, it will not bar the petitioner to file appeal in accordance with law, if any.

Sd/-
(Sanjay K. Agrawal)
Judge