

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 340 of 2017**

Arising out of order dated 23.08.2017 passed in W.P.(C) No. 2193 of 2017 by the
learned Single Judge

- Vrinda Lal Dhiwar, S/o Late Ganesh Ram, Aged about 50 years, Sarpanch of Gram Panchayat Malkharoda, Tehsil-Malkharoda, District Janjgir-Champa (C.G.), R/o Village- Malkharoda, P.S. & Tehsil Malkharoda, District Janjgir-Champa (C.G.)

---- Appellant

Versus

1. State of Chhattisgarh, through Secretary, Panchayat & Rural Administrative Department/Law and Legislative Department, Mahanadi Bhawan, Naya Raipur, Revenue and Civil District Raipur (C.G.)
2. Collector Janjgir-Champa, Revenue & Civil District Janjgir-Champa (C.G.)
3. Sub-Divisional Officer (Revenue) Cum-Prescribed Authority Sakti, Revenue & Civil District Janjgir-Champa (C.G.)
4. Sitaram, S/o Shyam Bandhu, Caste-Chandranahu, R/o Village Malkharoda, Tehsil Malkharoda, Revenue & Civil District Janjgir-Champa (C.G.)

---- Respondents

For Appellant	:	Shri Surfraj Khan, Advocate
For State	:	Shri U.N.S. Deo, Government Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Sharad Kumar Gupta, Judge****Judgment on Board****Per, Thottathil B. Radhakrishnan, Chief Justice****13/09/2017**

1. We have heard the learned counsel for the Appellant and the learned Government Advocate.

2. The Appellant/Petitioner challenged the issuance of a particular show cause notice against him. While the appellant's learned counsel says that the impugned notice has been issued without any foundational fact, perusing the materials and facts, we see that there is an apparent issue, fundamentally on facts, as to whether it is the Petitioner or the fourth respondent who could be alleged to have trespassed into lands in question. Any question relatable to jurisdiction is also a matter which can be raised before the authority which has issued the show cause notice. In the ultimate analysis, the issue as to identity of the lands and the person who has actually encroached on to it, if it all any one has done it, are facts to be determined by the competent authority. This is not a matter justiciable writ jurisdiction. The learned Single Judge was therefore abundantly justified in dismissing the writ petition. Therefore, without expressing anything on the merits of the claim of the Petitioner or the fourth respondent as to any right whatsoever touching the lands in question or the allegations against either them, the writ appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge