

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 6 of 2017

Murit Ram Sahu S/o Late Shri C.R. Sahu, Aged About 65 Years R/o Village
Risdi, Tahsil & District Korba Chhattisgarh ----- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue,
Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya
Raipur, District Raipur Chhattisgarh
2. Collector, Korba, District Korba Chhattisgarh
3. Sub Divisional Officer, (Revenue) Korba, District Korba Chhattisgarh
4. Tahsildar, Korba, District Korba Chhattisgarh ----- **Respondents**

For Petitioner	:	Shri B.D. Guru, Advocate
For Respondent/State	:	Shri B. Gop Kumar, Dy. A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

05/01/2017

Heard.

1. This petition has been filed by the petitioner aggrieved by initiation of proceeding under Section 248 of the Chhattisgarh Land Revenue Code for his eviction on the allegation of encroachment of land comprised in Khasra No.535 and Khasra No.530 of Village Risdi, Patwali Halka No.10, District Korba.
2. Learned counsel for the petitioner submits that the land of the petitioner was acquired under a power project and under the then existing rehabilitation policy, the petitioner along with other members of family were rehabilitated by giving land comprised in Khasra No.535 as per letter dated 29.09.98 of the Collector Bilaspur. Pursuant to that order, the Sub-Divisional Officer allotted the land and gave possession to the petitioner and informed the same vide his letter dated 07.10.98 to the Collector. Now after 18 years, the Tahsildar, Korba has initiated eviction

proceeding on the allegation that the petitioner has encroached upon land comprised in khasra No.535 as also Khasra No.530. The petitioner in response to show cause notice, has submitted his reply and brought it to the notice of the Tahsildar that he is in possession of the land comprised in khasra No.535 only as per the order passed earlier by the Collector and Sub-Divisional Officer and he is not the encroacher yet the proceedings are being continued by the Tahsildar and the petitioner is apprehending that on the basis of some report of a team constituted by the Collector, which held ex-parte enquiry in the matter, adverse order may be passed against him.

3. Learned State counsel submits that at present, the Tahsildar has only issued a notice to the petitioner and he has been given opportunity of filing reply and statement of the witnesses are being recorded. At present, the petition is premature and unless and until there is an order passed against the petitioner, the petitioner may not have any cause of action.

4. It appears that the petitioner is resisting the proceeding of eviction on the ground that the land comprised in khasra No.535 of Village Risdi, District Korba was allotted to him under a letter of Collector Bilaspur issued on 29.09.98 pursuant to which, possession was also handed over which is reflected from the communication of Sub-Divisional Officer and land Acquisition officer Korba dated 07.10.1998 addressed to the Collector, Bilaspur.

5. At present, the petitioner has been given a show cause notice, no final order has been passed against the petitioner. The petitioner has come out with a substantial defence, it is prima facie reflected from communication dated 07.10.98 of the Sub-Divisional Officer, Korba that the petitioner was rehabilitated and along with members of the family, land comprised in khasra No.535 was allotted to him and possession was also handed over to him. Proceedings of eviction are not only in respect of khasra No.535 but also in respect of land comprised in khasra No.530. As far as land comprised in khasra No.530 is concerned, the petitioner has not placed on record any document of allotment or possession to him.

6. The order sheets which have been placed on record show that presently enquiry is going on and the statements are being recorded.

7. The apprehension of the petitioner that some report on the basis of enquiry conducted by the team of officers may be used against him, is based on the fact that the committee was constituted by the Collector.

8. The matter is under enquiry before the Tahsildar. If the petitioner applies for all the documents including enquiry report, which may be used against him, the Tahsildar shall supply to the petitioner all those documents including enquiry report which has led to initiation of proceedings under Section 248 of the Land Revenue Code. The petitioner would be at liberty to raise all defence. The Tahsildar is directed to make just and fair enquiry by taking into consideration the order dated 29.09.98 of the Collector, Bilaspur referred to in letter dated 07.10.98 of Sub-Divisional Officer to decide whether or not the petitioner is guilty of any encroachment in so far as khasra No.535 of Patwali Halka No.10 of Village Risdi, District Korba is concerned.

9. In case, there is any adverse order against the petitioner, it will be open for the petitioner to take appropriate remedy under the law.

10. The petition is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge