

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1999 of 2015**

1. Kaushal Satnami S/o Panchram, Aged About 45 Years Caste Satnami, R/o Village Ahilda, P. O. Ahilda, Via Lawan, P. S. Kasdol, Tahsil Baloda Bazar, Distt. Balodabazar Bhatapara (Chhattisgarh).
2. Santram, S/o Rambagas Teli, Aged About 53 Years R/o Village Ahilda, P. O. Ahilda, Via Lawan, P. S. Kasdol, Tahsil Baloda Bazar, Distt. Balodabazar Bhatapara (Chhattisgarh).
3. Itwari W/o Kunjram Raut, Aged About 50 Years Caste Satnami, R/o Village Ahilda, P. O. Ahilda, Via Lawan, P. S. Kasdol, Tahsil Baloda Bazar, Distt. Balodabazar Bhatapara (Chhattisgarh).
4. Omprakash, S/o Bulanta, Aged About 35 Years Caste Satnami, R/o Village Ahilda, P. O. Ahilda, Via Lawan, P. S. Kasdol, Tahsil Baloda Bazar, Distt. Balodabazar Bhatapara (Chhattisgarh).
5. Panchram, S/o Arbak, Aged About 53 Years Caste Satnami, R/o Village Ahilda, P. O. Ahilda, Via Lawan, P. S. Kasdol, Tahsil Baloda Bazar, Distt. Balodabazar Bhatapara (Chhattisgarh).

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Deptt. Of Revenue, Mantralaya, Mahanadi Bhawan, Naya Raipur, Distt. Raipur (Chhattisgarh).
2. The Collector, Balodabazar, District Balodabazar Bhatapara (Chhattisgarh)
3. The Sub Divisional Officer (Revenue), Balodabazar, District Balodabazar Bhatapara (Chhattisgarh)
4. Tahsildar, Tahsil Lawan, Distt. Balodabazar Bhatapara (Chhattisgarh)
5. Sarpanch, Gram Panchayat Ahilda, Village Ahilda, P. S. Kasdol, Tahsil Baloda Bazar, Distt. Balodabazar Bhatapara (Chhattisgarh)
6. The Secretary, Gram Panchayat Ahilda, Village Ahilda, P. S. Kasdol, Tahsil Baloda Bazar, Distt. Balodabazar Bhatapara (Chhattisgarh)
7. The Patwari, Patwari Halka No. 29, Village Ahilda, P. S. Kasdol, Tahsil Baloda Bazar, Distt. Balodabazar Bhatapara (Chhattisgarh).

---- Respondent

For Petitioners : Shri R.N. Pusty, Advocate.
For Respondent/State : Shri Shashank Thakur, Govt. Advocate.
For Respondents 5 & 6 : Shri A.S. Rajput, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

27/01/2017

1. The petitioners have prayed for a direction to the respondents not to dispossess the petitioners from the lands allotted to them under Section 239 of the CG Land Revenue Code, 1959 (for short 'the Code') under Indira Hareli Saheli Yojna.
2. At the outset, learned State Counsel would draw attention of the Court to the documents filed along with return to submit that pursuant to the resolution and proclamation issued by the Gram Panchayat, steps are taken by the Gram Panchayat to evict the petitioners from the lands in question and no action has been taken by the competent authority of the State Government.
3. Under Section 239 of the Code the petitioners have been granted lease/patta under the signatures of Naib Tehsildar, however, no action has been initiated against the petitioners by the Naib Tehsildar, therefore, at this stage, the petitioners cannot be treated as encroachers. Thus the action taken by the Gram Panchayat for removal of encroachment is without any authority of law.
4. Therefore, the Writ Petition is disposed of with an observation that if the competent authority of the State Government desirous to initiate

any action, it would be appropriate to do so and while doing so, it may consider the resolution passed by the Gram Panchayat. However, the Gram Panchayat itself cannot evict the petitioners by treating them as encroachers.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve