

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 940 of 2017**

- Chhattisgarh Housing Board Through Assistant Engineer, C G Housing Board, Division- 1, Kabir Nagar, Police Thana- Amanaka, Raipur, District Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. Girish Chandra Ashtikar & Another S/o J M Ahstikar Aged About 55 Years R/o Rohinipuram, Danganiya, P H No.- 104, Thana- D.D. Nagar, Raipur, Chhattisgarh.
2. Sudhir Kumar Ashtikar, S/o J M Ashtikar Aged About 58 Years R/o Rohinipuram, Danganiya, P H No.- 104, Thana- D.D. Nagar, Raipur, Chhattisgarh.

---- Respondents

For Petitioner : Shri Sanjay Patel, Advocate.

For Respondents : Ms. Adity Singhavi, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****08/09/2017**

Heard.

1. This petition under Section 482 of Cr.P.C. has been brought with a prayer to quash the order passed by Second Additional Sessions Judge, Raipur in Criminal Revision No.353 of 2014, by which the order passed by Sub-Divisional Magistrate, Raipur in favour of the respondent was upheld.
2. It is submitted by learned counsel for the petitioner that the disputed land bearing Khasra No.87/20.100 of area 3040 Sq. meter is the disputed land. State Government of Chhattisgarh by land of acquisition case No.66A/82, 88-89 has acquired lands and the possession of the lands so

acquired were handed over to the petitioner. The disputed land was a part of the land, acquired by the State Government. Respondents have raised a claim on the disputed land on the basis of a sale-deed executed in their favour by Jagoti Bai dated 19.12.1985 and an application was moved under Section 145 of Cr.P.C. before the Court of Sub-Divisional Magistrate, Raipur. Sub-Divisional Magistrate passed order dated 12.11.2014, giving a finding that respondents are in possession of the lands and petitioner was restrained to interfere in possession of the respondent. This order was challenged in Revision Petition, which has been rejected by the Sessions Court, upholding the findings of Sub-Divisional Magistrate. Hence, this petition.

3. Learned counsel for respondents has objected that the petition has been brought after sufficient delay and there is no explanation of delay, hence, as per the settled principles, a delayed petition cannot be entertained. It is also submitted that respondents have a claim on the land, on the basis of proprietary rights, hence, the dispute if any between the parties is of civil nature, for these reasons this petition is not maintainable.
4. Heard both the parties and perused the material on record.
5. On perusal of the documents on record, it appears that the part of the land acquired by the State Government was handed over symbolically to the petitioner, but the findings of the SDM Court is, that petitioner is not in possession. The findings of possession in favour of respondents is claimed on the basis of title by purchase. It also appears that the respondents had not been a party in the acquisition proceeding. Hence, under these circumstances, the dispute, if any, between the parties is definitely of civil nature. Petitioner has a claim on the disputed land, on

the basis of the acquisition proceeding in that case, the petitioners are required to approach the Civil Court pleading that the title and possession claimed by the respondents, is illegal and they are not entitled to retain the possession of the land in question, hence, it is not a case in which any relief can be granted by this Court. After the clear findings of the Courts below regarding the possession on the disputed land and admission of the petitioner, that he is not in possession, this petition appears to be without any substance.

6. On the basis of the reasons aforementioned, this petition is dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE