

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 114 of 2017**

- Dr. D. Bharti, S/o Shri Deep Chand Bharti, aged about 47 years, R/o Arjunnagar, Ward No. 17, Camp-1 Bhilai, District Durg (C.G.)

---- Petitioner**Versus**

1. The State of Chhattisgarh through Secretary, Department of Revenue, Mahanadi Bhawan, Naya Raipur (C.G.)
2. The Municipal Corporation Bhilai, through its Commissioner, District Durg (C.G.)
3. The Collector, Collectorate Office, District Durg (C.G.)
4. The Sub-Divisional Officer, (Rev), District Durg (C.G.)
5. The Tahsildar, Kurud, District Durg (C.G.)

---- Respondents

For Petitioner	:	Shri Animesh Verma, Advocate
For State	:	Shri Yashwant Singh Thakur, Additional Advocate General
For Respondent No.2	:	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge

Order on Board**Per, Thottathil B. Radhakrishnan, Chief Justice****13/09/2017**

1. We have heard the learned counsel for the Petitioner, the learned Additional Advocate General and the learned counsel for the Corporation.
2. Looking at the reliefs *qua* the pleadings and evidence it may not be appropriate or possible for the writ court to embark upon an adjudication by

treating this writ petition as a public interest litigation, particularly when very many issues of facts touching possession and identification of lands and laying the boundaries may arise, ultimately. Yet we are inclined to think that the concern sounded by the Petitioner needs the attention of the jurisdictional officials of the State Government.

3. It appears that Khadag Bharti who held vast expanse of land in village Kurud, registered Damami Pattas dated 3.5.1948 in favour of Shyam Bai, Shatrughan Bharti, Kashi Bai and Kanti Bai total extending to around one acre and thirty odd cents. That was subject matter of proceedings before the S.D.O. Durg wherein different persons claimed that they were entitled to be conferred Bhoomiswani right in the lands which were disputed in that proceedings. The S.D.O. dismissed the application as per order dated 6.6.1984. May be in ignorance of; or by ignoring that order; certain proceedings were generated in 1990 which went in favour of the persons in occupation. That decision was obviously contradictory to the S.D.O. decision dated 6.6.1984. The later decision became subject matter of a bunch of writ petitions before this Court filed by the State of Chhattisgarh through the Secretary in the Department of Revenue. That ended up in Annexure-P/2 judgment dated 24.8.2011, which copiously referred to the relevant facts. The Respondents therein took a direct challenge against that order by seeking Special Leave to Appeal before the Hon'ble Supreme Court. That found its Waterloo through Annexure-P/3 order. Thus, Annexure-P/2 judgment has become final.

4. The pleadings in this writ petition, particularly in relation to the events after Annexure-P/3, tend to indicate that there may be many occupants in the lands in question. Maintaining in our mind, the clear distinction between the jurisprudential concepts of title, occupation,

possession etc, we may say that if the State Government had carried forward the vigilance it showed in instituting and prosecuting the writ petitions which led to Annexure-P/2 order, the present situation could have been, by and large, avoided.

5. The competent authority in the State Government has to now ensure that due procedure is taken in relation to lands which are referable to Government's title. Necessary measures have to be taken to bring such lands into the possession of the Government, if they are otherwise.
6. For the aforesaid reasons, this writ petition is ordered directing that due action shall follow in accordance with law in the light of what is stated above and taking note of the pleadings in the writ petition; however, without treating any of the contents of this judgment as operative against the legitimate rights of any person in occupation or possession, to raise all such contentions as may be available in accordance with law, on any of the issue that may arise for consideration. Let such proceedings be initiated by the competent authority within an outer limit of one month now, and such proceedings shall conclude at the earliest.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge