

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC. No. 26 of 2007**

1. Smt. Kamalabai Motwani, Aged about 55 years, W/o Late Shri Bhagwan Das Motwani;
2. Rajesh Kumar Motwani, Aged about 30 years, S/o Late Shri Bhagwan Das Motwani;
3. Rakesh Kumar Motwani, Aged about 27 years, S/o Late Shri Bhagwan Das Motwani;

All residents of Bhoipara, Kanker (C.G.)

---- Petitioners

**Versus**

1. The Secretary, Department of Revenue, Mantralaya, DKS Bhawan, Raipur (C.G.)
2. State of Chhattisgarh, Through : Collector, Kanker (C.G.)

---- Respondents

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| For Petitioner        | : | Mr. Sanjay Agrawal, Advocate. |
| For Respondents/State | : | Mr. Ashish Surana, P.L.       |

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**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order On Board**

**12/04/18**

1. Lease of the subject land was granted to Gaffar Bhai S/o Mohammed Bhai from whom the petitioners purchased vide registered sale deed in 1981. The aforesaid lease has been cancelled by the Collector vide order dated 24-06-2004 on the ground that no construction has been made on the subject land which has been affirmed by the State Government. Against that order, this writ petition has been preferred.
2. Learned counsel for the petitioners would submit that no enquiry has

been made by the Collector and straightway, a report was called from the Revenue Inspector and after reply from the petitioners, the lease has been cancelled which is unsustainable and bad in law.

3. Learned counsel for the State would support the impugned order.

4. I have heard learned counsel for the parties and perused the record with utmost circumspection.

5. On perusal of the record, It appears that show cause notice was issued to cancel the lease of the petitioners to which they filed reply. The Collector called report from the Revenue Inspector concerned but no copy of report has been given to the petitioners and no enquiry was made with regard to violation of terms of lease of the petitioners.

6. Cancellation of lease has civil consequence and it ought to have been proceeded by giving reasonable opportunity of being heard to the petitioners which has not been done. In conclusion, the cancellation of lease has been done without initiating duly constituted proceeding by leading evidence and allowing the other parties to lead/rebut the evidence. The material relied upon by the State Government to cancel the lease has even not been supplied to the petitioners and thus, it has resulted in passing of the order in breach of the principles of natural justice. Therefore, the order dated 26-09-2006 and order dated 26-08-2004 deserve to be quashed and they are hereby quashed. The respondents are at liberty to proceed in accordance with law. If proceeding is initiated afresh, then a duly constituted show cause notice supported by documents / material will be issued to the petitioners giving reasonable time to them to file and the parties will be

entitled to lead evidence and support their case and thereafter, a reasoned and speaking order will be passed strictly in accordance with law.

7. The writ petition is allowed to the extent indicated herein above. No order as to cost(s).

Sd/-  
**(Sanjay K. Agrawal)**  
Judge

Kvr