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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 6521 of 2011**

1. Hafeez Khan, S/o Abdul Wahid, aged 58 years, R/o Post Kurud, Dist. Dhamtari, by occupation Driver in the employment of M/s The Bastar Oil Mills & Industries Limited, Jagdalpur.
2. Bashir Ahmed Baig, S/o Mohammad Ibrahim Baig, aged 69 years, R/o Kumhar Para, Jagdalpur, Office Incharge, M/s The Bastar Oil Mills & Industries Limited, Jagdalpur.
3. Kishore Bamnote, S/o Shri Hiralal Bamnote, aged 40 years, R/o Subhash Nagar, Durg (CG), an employee and authorised signatory of M/s The Bastar Oil Mills & Industries Limited, Jagdalpur.
4. Prithvi Raj Agrawal, S/o Late Kundan Lal Agrawal, aged 62 years, Managing Director, M/s The Bastar Oil Mills & Industries Limited, Jagdalpur, R/o Vrindhavan Colony, Jagdalpur, District Bastar (CG).

---- Petitioners**Versus**

1. The State of Chhattisgarh, through the Principal Secretary, Ministry of Forest, Government of Chhattisgarh, DKS Bhawan, GE Road, Raipur (CG).
2. The Manging Director, District Forest Produce Co-operative Federation Limited, North Kondagaon, Dist. Bastar (CG).
3. The Collector, Bastar at Jagdalpur (CG).
4. The Tehsildar, Farasgaon, Dist. Bastar (CG).

---- Respondents

For Petitioners
For Respondent/State
For Respondent No.2

Shri Ashish Shrivastava, Advocate
Shri P.K. Bhaduri, Govt. Advocate
Shri A.S. Kachhawaha, Advocate and
Ms Pushpa Dwivedi, Advocate

Order On Board**By****Prashant Kumar Mishra, J.**

27/08/2018

1. The present petition has been preferred seeking quashment of the demand notices. By order Annexure – P/2 the office of the Divisional Forest Officer & Managing Director, Zila Vanopaj Sahakari Sangh Maryadit, Uttar Kondagaon, District Bastar has raised demand of Rs.49,73,509/- against the petitioner for its failure to lift the contracted quantity of Sal seeds during the contract period of 2009.
2. The writ petition has been preferred mainly on the ground that for executing the contract on behalf of the Bastar Oil Mills & Industries Limited, the petitioners No.1 to 3 were appointed as power of attorney holder, but they were not any entity or authority in the company so as to make them liable for any recovery which the Government is seeking to enforce in terms of contract against the Bastar Oil Mills & Industries Limited, however, the Tahsildar has issued demand notices to the petitioners No.1 to 3, therefore, the same is illegal and arbitrary.
3. A perusal of the order Annexure – P/2 passed by the Divisional Forest Officer & Managing Director, Zila Vanopaj Sahakari Sangh Maryadit, Uttar Kondagaon, District Bastar, would indicate that the recovery was directed against the Bastar Oil Mills & Industries Limited through its Proprietor P.R. Agrawal, the petitioner No.4 though the agreement was signed by the petitioners in one capacity or the other as power of attorney

holder on behalf of the company. Even if the petitioners were authorised by the Bastar Oil Mills & Industries Limited to sign agreement, in law, it is the company who was awarded the contract and not those servants or attorney holder of the company who have signed the agreement on behalf of the company.

4. Annexure – P/1 is the Memorandum & Articles of Association of the Bastar Oil Mills & Industries Limited in which names of the subscribers of the company are mentioned. The Managing Director of the Zila Vanopaj Sangh, could have ascertained the Directors of the company from whom the recovery is to be made and thereafter the recovery should have been directed against the Managing Director and Directors of the company rather than the employees of the company. Petitioner No.4 is the Managing Director of the company, therefore, the notice of recovery against him is valid in law, however, recovery against the petitioners No.1 to 3 who are the Driver, Office Incharge and Employee, respectively is not in accordance with law.
5. In the considered view of this Court, the concerned Tahsildar should have effected recovery against the Managing Director and Directors of the company after obtaining information from the Divisional Forest Officer & Managing Director, Zila Vanopaj Sahakari Sangh Maryadit, Uttar Kondagaon, District Bastar.
6. Let the respondent-Zila Vanopaj Sahakari Sangh Maryadit, Uttar Kondagaon, District Bastar inform the concerned Tahsildar the

name of the Managing Director and Directors of the Bastar Oil Mills & Industries Limited and thereafter, the Tahsildar shall initiate the recovery proceedings against the said individuals and the Bastar Oil Mills & Industries Limited in accordance with law.

7. With the aforesaid observations, the writ petition stands disposed of.

Sd/-

Judge
Prashant Kumar Mishra

Gowri