

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WA No. 229 of 2018**

Hardeep Singh S/o Mahindra Singh, Aged About 46 Years
 Proprietor- Mahendra Poultry Farm, Dharampura, District Raipur,
 Chhattisgarh. R/o 1/10 Govind Nagar, Near New Bus Stand,
 Gurudwara Road, Raipur, District Raipur, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through Secretary Urban Administration, Department of Town and Country Planning, Mantralaya, Mahanadi Bhawan, New Raipur, Raipur, Chhattisgarh.
2. Collector, Raipur, District Raipur, Chhattisgarh.
3. Sub Divisional Magistrate, Raipur, District- Raipur, Chhattisgarh.
4. Sub- Divisional Officer (Revenue), Raipur, District- Raipur, Chhattisgarh.

---- Respondents

For Appellant	: Shri Kishore Bhaduri and Shri Pawan Kesharwani, Advocates
For State	: Shri R.K. Gupta, Deputy Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Sharad Kumar Gupta, Judge****Judgment On Board****Per Thottathil B. Radhakrishnan, Chief Justice****03/04/2018**

1. We have heard learned counsel for the appellant and the learned Deputy Advocate General for the State.

2. This is an appeal by the writ petitioner. It appears that simultaneous proceeding under Section 133 of the CrPC and under Section 172 of the Chhattisgarh Land Revenue Code, 1959 were initiated against the appellant. The appellant pleads that he has been carrying out an activity of poultry in a piece of land which is in his possession. It is pleaded that the said piece of land belongs to him. Action has been initiated under Section 133 of the CrPC and notice has been issued proposing to finalize a provisional decision under that provision. The appellant has responded to that notice that is pending consideration at the hands of the Sub Divisional Magistrate, who is a competent authority. Insofar as proceedings under Section 172 of the Chhattisgarh Land Revenue Code is concerned, the allegations against the appellant by the Sub Divisional Officer appears to be that the land in question is put to use for the purpose of poultry without obtaining sanction for conversion of the purpose of utility of the land in terms of the Land Revenue Code, which is normally refer to as diversion of the utility and purpose.
3. The learned Single Judge noticed that the proceedings under Section 133 of the CrPC is going on before the competent authority and that the appellant has responded. It is therefore held that no interference in writ jurisdiction was found to be called for since there was no jurisdictional issue which warranted exercise of authority under Article 226 of the Constitution. Insofar as the proceedings under Section

172 of the Chhattisgarh Land Revenue Code is concerned the learned single Judge was of the view that the said proceeding is in its infancy and the appellant has every opportunity to respond to the notice issued by the Sub Divisional Officer.

4. We see that the proceeding under Section 133 of CrPC has to go on to its logical end, however, that there cannot be an indefinite delay in concluding those proceedings. We say so because proceedings under Section 133 of the CrPC are not only summary, but are intended to deliver immediate situational justice, including in cases where nuisance is established. Therefore, there is no gain saying that those proceedings will take its own time to be concluded. Therefore while affirming the decision of the learned single Judge that the proceedings under Section 133 of the CrPC may go on, it is directed that the said proceeding shall be concluded by the Sub Divisional Magistrate at the earliest, in accordance with law.
5. Insofar as the proceedings under Section 172 of the Chhattisgarh Land Revenue Code is concerned, the learned Single Judge was justified in holding that the matter is in its infancy; that is to say, at the stage of a pre-decisional notice. Obviously therefore we are of the view that the proceedings before the Sub Divisional Officer as initiated by that authority could also continue, however, independent of the

proceedings pending before the Sub Divisional Magistrate under Section 133 of CrPC. Looking at the fact situation projected in the writ petition as well as on behalf of the respondents through submissions and bearing in mind the definition of the term 'agriculture' in Section 2(1)(b)(v) of the Chhattisgarh Land Revenue Code, it is directed that the Sub Divisional Officer shall not pass any interlocutory order pending final decision of the proceeding initiated under Section 172 of the Chhattisgarh Land Revenue Code, as against appellant herein as regards the matters relating to the proceeding under Section 172 of the Chhattisgarh Land Revenue Code.

6. It will be open to the parties to raise all issues before the Sub Divisional Magistrate or the Sub Divisional Officer as the case may be.
7. The writ appeal is ordered as above in modification of the judgment of the learned single Judge.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge