

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 541 of 2011**

- Nawki W/o Late Sira Ram, aged about 65 years, R/o Balrampur, Tahsil - Balrampur, District Surguja, (C.G.) (Since deceased) Through LRS :-

1. Premlal S/o Charitra Aged about 19 years,

2. Malti W/o Late Basant aged about 28 years,

3 (a) Juneshwar S/o Late Santlal aged about 14 years,

(b) Deepak S/o Late Santlal aged about 8 Years,

(c) Mansukh S/o Late Santlal aged about 8 years,

The legal representative 3 (a) to c is minor through natural guardian, legal Representative No.2 Malti w/o Late Basantlal.

All are R/o Village – Mariyam Para Balrampur, P.S. - Balrampur, Distt. Balrampur – Ramanajganj (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, Through – The Secretary, Department of Revenue, D.K.S. Bhawan, Raipur, Distt. Raipur – (C.G.)
2. Tahsildar Balrampur, Tahsil – Balrampur, Distt. Surguja (C.G.)

---- Respondents

For Petitioners : Shri A.N. Pandey, Advocate

For Respondents/State : Shri Rahul Jha, GA

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

23/09/2019

1. Heard.

2. The instant petition has been filed for the following reliefs:-

“10.1 That, this Hon'ble Court may kindly be pleased to issue a writ of certiorari for quashing the order/information dated 18.01.2011 issued by the respondent No.2.

10.2 Any other relief or reliefs may also be granted to the petitioner which this Hon'ble court deems fit and proper in the facts and circumstances of the case.”

3. Initially the petition was filed by Nawki w/o Late Sira Ram, after her death, the legal heirs have been arrayed as petitioners.
4. Learned counsel for the petitioners would submit that the husband of the deceased petitioner Late Sira Ram was granted a lease in a petition along with others and he was settled over the part of the land bearing Khasra No.8/4 admeasuring 0.081 hectares which would be evident from the revenue case No.131A-19/89-90. He would further submit that the notices have been issued to the said deceased that she has encroached upon the land bearing Khasra No.312 admeasuring 0.15 hectares. It is stated that the petitioner is actually in possession of the land bearing Khasra No.8/4, which too was earlier a government land and they are in possession over the said land for the last more than 45 years. He would further submit that after the notice was served, the reply was filed, however, the State has went upon to get him vacated.
5. Learned State counsel would submit that the petitioners are in possession of Khasra No.312 and the entire proceeding for vacation of the land was in respect of Khasra No.312.
6. I have heard learned counsel for the parties and perused the documents.
7. Considering the issue involved, the petitioners claim their right over the land bearing Khasra No.8/4 admeasuring 0.081 hectares, which appears to have been granted to the predecessors of the petitioners in the year 1990. The order

passed in revenue case bearing No. 131A-19/89-90 by the Tehsildar, Ramanujganj, would show that the land was granted to Sira Ram and the land is situated at village Balrampur. The petitioners claim that they are in possession of the land which has been granted to them by the State and they have not encroached upon any government land. Whereas the government says that the petitioners have encroached upon the government land bearing Khasra No.312. The land which the petitioners are claiming is distinct as they are claiming to be in possession of the land bearing Khasra No.8/4 whereas respondent State claims that the petitioners have encroached upon a government land which is bearing Khasra No.312. Under the circumstances, no virtual dispute exists. It is therefore, directed that the land of the petitioners may be demarcated by the authorities that whether they are in possession of the government Khasra No.8/4 or not? as per the grant made in their favour in the revenue case or not. Considering the background under which the petitioners were settled by the State, the State may also consider the fact that if it is found that they are possession of the land bearing Khasra No.312 then in lieu of Khasra No.8/4, then the option for exchange may also be considered as the grant of land to the petitioners and averments of encroachment made also a government land. Till such exercise is carried out, the petitioners may not be forcefully evicted from their possession.

8. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge