

HIGH COURT OF CHHATTISGARH, BILASPUR**REVP No. 161 of 2017**

*(Arising out of order dated 13.09.2017 passed by the learned Division Bench in
Writ Petition (PIL) No. 114/2017)*

1. Badruddin Qureshi S/o Shri Nizamuddin Qureshi, Aged About 70 Years R/o 32 Bunglow, Bhilai District Durg, Chhattisgarh
2. Mohd. Saleem S/o Shri Mohd. Habib, Aged About 60 Years R/o Kelabadi, District Durg, Chhattisgarh
3. Rukhsana Begum D/o Shri Badruddin Qureshi, Aged About 45 Years R/o Street No.9-B, Block 2-B, Sector-10, Bhilai Nagar, District Durg, Chhattisgarh
4. Ganesh Tiwari S/o Shri Sukhdev Prasad, Aged About 69 Years R/o Sector-2, Bhilai Nagar, District Durg, Chhattisgarh
5. Sirajuddin Qureshi S/o Shri Nizamuddin Qureshi, Aged About 75 Years R/o Nehru Nagar, Bhilai, District Durg, Chhattisgarh
6. Moinuddin Qureshi S/o Shri Sirajuddin Qureshi, Aged About 45 Years R/o Nehru Nagar, Bhilai, District Durg, Chhattisgarh

---- Petitioners

Versus

1. Dr. D. Bharti S/o Shri Deep Chand Bharti, Aged About 47 Years R/o Arjun Nagar, War. No.17, Camp-1, Bhilai, District Durg, Chhattisgarh
2. State Of Chhattisgarh, Through Secretary, Department Of Revenue, Mahanadi Bhawan, Naya Raipur, Chhattisgarh
3. The Municipal Corporation Bhilai, Through Its Commissioner District Durg, Chhattisgarh
4. The Collector, Collectorate Office, District Durg, Chhattisgarh
5. The Sub Divisional Officer Rev., District Durg, Chhattisgarh
6. The Tahsildar, Kurud, District Durg, Chhattisgarh

---- Respondents

For Petitioners	: Dr. N.K. Shukla, Senior Advocate assisted by Shri Santham Awasthi, Advocate
For Respondent-State	: Shri Sudeep Agrawal, Deputy Advocate General.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge

Order on Board

Per P.R. Ramachandra Menon, Chief Justice.

17/10/2019

1. Review is sought for in respect of the judgment passed by this Court on 13.09.2017, whereby the writ petition filed as 'Public Interest Litigation' with regard to the encroachment over the Government properties and the further course of action taken from the part of the Government was disposed off.
2. Dr. N.K. Shukla, learned Senior Counsel appearing for the Review Petitioners submits that, much prejudice has been caused to the Review Petitioners so far as the property concerned was purchased by them from the persons concerned for valuable sale consideration and they being the *bonafide* purchasers, no proceedings could be pursued against them merely on the basis of the direction given by this Court as per Annexure-A/1, which hence is sought to be reviewed. We heard the learned Deputy Advocate General as well.
3. Going by the proceedings, it is seen that the case projected before this Court was taken note of by the learned Judges in 'paragraph 2' of the judgment that there cannot be any 'merit adjudication' by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. The verdict also mentioned that the particulars of the persons who encroached into the property or their connection with the transactions were also not brought on record, however adding that, if the property was actually belonging to the Government, it was necessary for the Government to take appropriate measures to bring back such property to the Government, in accordance with law. Reserving the rights and liberties of all interested parties concerned, the matter was disposed off accordingly, without

entering into any finding on merit. This is more discernible from paragraphs 2 and 6 of the judgment, which are extracted below :

“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.

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.”

4. After hearing and after going through the materials on record, we are of the view that there is 'no error apparent on the face of record' to exercise the limited jurisdiction of this Court by way of review. We find support from the ruling rendered by the Apex Court in ***Smt. Meera Bhanja v. Smt. Nirmala Kumari Choudhury, AIR 1995 SC 455.***
5. The review petition stands dismissed, without prejudice to the rights and liberties of the Petitioners to move the competent authorities so as to establish the rights in connection with the property, if at all any. All contentions are left open.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge