

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 116 of 2019**

Kumar @ Raj Kumar Sahu S/o Shri Nankidau Sahu Aged About 50 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary Department Of Home Mahanadi Bhawan New Raipur Civil And Revenue District Raipur Chhattisgarh.
2. The Director General Of Police Raipur Civil And Revenue District Raipur Chhattisgarh.
3. The Inspector General Of Police Bilaspur Civil And Revenue District Raipur Chhattisgarh.
4. The Superintendent Of Police Janjgir Civil And Revenue District Janjgir Champa Chhattisgarh.
5. The Station House Officer Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
6. The District Magistrate /Collector Janjgir Civil And Revenue District Janjgir Champa Chhattisgarh.
7. Dhaneshwar Kathautiya S/o Shri Dhanau Aged About 37 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
8. Nand Lal Sahu S/o Shri Guharam Sahu Aged About 60 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
9. Ram Keval S/o Shri Parsadi Sahu Aged About 65 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
10. Puran Sahu S/o Shri Parsadi Sahu Aged About 67 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
11. Budhram Patel S/o Shri Phudu Patel Aged About 45 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
12. Chhotu Pradhan S/o Shri Ramji Aged About 55 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
13. Samme Sahu S/o Shri Babulal Aged About 70 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
14. Beni Madhav Sahu S/o Shri Khubram Aged About 52 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
15. Bharat Sahu S/o Shri Dauram Sahu Aged About 65 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
16. Mahesh Sahu S/o Shri Tenganu Ram Sahu Aged About 45 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.
17. Shankar Sahu S/o Shri Tenganu Ram Sahu Aged About 45 Years R/o Village Tusma Police Station Shivrinarayan Civil And Revenue District Janjgir Champa Chhattisgarh.

---- Respondents

For Appellant	: Shri Paras Mani Shrivastava, Advocate.
For Respondent/State	: Shri Vikram Sharma, Panel Lawyer.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

18/03/2019

Per Ajay Kumar Tripathi, Chief Justice

1. Heard counsel for the parties.
2. Appeal is dismissed for the reasons which have been taken note of by the learned Single Judge in quite a detail, in following terms:-

“4. On the other hand, Shri Raj Kumar Gupta, learned counsel for the State submits that the petition as framed is not at all maintainable as the complaint has already been considered, in which, it was found that the said complaint is a false one and in fact the petitioner himself was found to be one of the encroachers. He submits further that after examining the said complaint, an appropriate action has been initiated while registering the case under Sections 107 and 116 of Cr.P.C. against the petitioner as well as respondents No. 7 to 17. Therefore, the petition is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the entire record carefully.

6. A complaint was filed by the petitioner on 09.09.2018, in which, it is alleged that the property in question bearing Kh.No. 2334/1 admeasuring 1.50 acres was provided to him on lease in the year 1989 and was in possession thereof, however, respondents No. 7 to 17 have illegally entered into his house and demolished the same. The contention of the petitioner is that despite filing of the said complaint, it was not considered, therefore, he has been constrained to file the instant petition for an appropriate direction. However, perusal of the reply submitted by respondents No. 1 to 6 coupled with the records (Annexure R/1) attached with its reply would show that the said complaint was considered and it was found to be incorrect and in fact the petitioner himself has encroached the said land. It revealed further that after following the due process of law, they have proceeded with the said matter and removed the said encroachment. It is stated further in their reply that after holding an enquiry on the basis of the said complaint, an appropriate proceeding required under Sections 107 and 116 of the Cr.P.C. has been initiated against the petitioner as well as respondents No. 7 to 17.

7. In view of the aforesaid facts, it is evident that the alleged complaint was not only considered by respondents No. 1 to 6/State Authorities but an appropriate action under Sections 107 and 116 of Cr.P.C. has also been initiated. As such, the contention of the petitioner cannot be accepted."

3. The reasons given by the learned Single Judge are cogent and valid reasons and it does not require any interference in appeal.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE

Yogesh