

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1732 of 2012**

Kailash S/o Rampukar Aged About 48 Years S/o Vill Khajuri, Post Navanagar, Post Darima, Tah Ambikapur, Distt Sarguja, Chhattisgarh ---
Petitioner

Versus

1. State of Chhattisgarh through Collector, Sarguja Ambikapur Distt Sarguja, Chhattisgarh
2. Gram Panchayat Khajuri through Sarpanch, Gram Panchayat Khajuri, Post Navanagar, PS Darima, Tah Ambikapur, Distt Sarguja, (Ambikapur), Chhattisgarh
--- Respondents

For Petitioner	:	Shri C.J.K. Rao, Advocate
For Respondents/State	:	Shri Rahul Jha, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****27-08-2019**

1. The instant petition is filed for the following relief(s) :

“10.1 That the Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus directing the respondents authorities not to construct staff quarters in the plot of the petitioner having khasra Nos.421, Khasra No.571 area 218 hectares.

10.2 That the Hon'ble Court may kindly be pleased to call for the entire records from the office of respondents.

10.3 To award the cost and expenses of this petition.

10.4 To issue any other writ or directions or orders in favour of the petitioner and again the respondents upon these facts and in the circumstances of the case in the interest of justice.”

2. Learned counsel for the petitioner would submit that the petitioner is in

possession of the lands bearing Kh.No.421 and 571 which are admeasuring 1.793 hectares and 2.120 hectares respectively. It is submitted that in respect of Kh.No.421 the petitioner is in possession of the land admeasuring 0.109 hectares. In respect of Kh.No.571 certain trees have been planted. It is stated that some ANM staff quarters are being constructed and though the petitioners are in possession, the authorities are trying to oust them without any lawful orders and by force, the possession of the petitioner is being disturbed. He further submits that only the Panchnama would show that the dispute is only for 0.024 hectares in respect of Kh.No.571 and the petitioner is in possession of the said land for the last about 8 years.

3. Per contra, learned State Counsel opposes the arguments. He submits that the petitioner does not have any right over the lands in question bearing Kh.No. 421 & 571. He refers to the *Panchnama* and would submit that the petitioner's right has not been established, therefore, this petition is not tenable.
4. Perused the document. Along-with the reply, Panchnama is placed on record in respect of Kh.Nos. 421 & 571. The Panchnama shows that Kh.No.421 is admeasuring 1.793 hectares and Kh.No.571 is admeasuring 2.120 hectares. The Panchnama further purports that over Kh.No.421 on the southern part over 0.109 hectares, the house of the petitioner is there and trees have been planted and the petitioner is enjoying the possession. Whereas in respect of Kh.No.571, 3 Neem trees have been planted and the part of construction has already been made over Kh.No.571 admeasuring 0.024 hectares. The dispute appears to be in respect of Kh.No.571 that too a part of area admeasuring 0.024 hectares wherein certain ANM quarters have been constructed. At present, it appears that there is no dispute about the possession in respect of the other part of the land bearing Kh.No.421. The Panchnama *prima facie* shows that the ownership does not belong to

the petitioner and the dispute is only with respect to construction of the house over Kh.No.571 admeasuring 0.024 hectares.

5. Taking into consideration the Panchnama, it is directed that the State shall be free to construct ANM houses over the part of the land bearing Kh.571 and the disputed area is shown to be 0.024 hectares. The petitioner is said to be in possession of certain land over a part of Kh.571. Even if the petitioner is in possession he cannot be evicted otherwise than in due course of law. Therefore, the State shall be at liberty to take action in accordance with law.
6. With the above observation, this petition stands disposed of.

Sd/-

(Goutam Bhaduri)
Judge

Rao