

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2293 of 2015**

Shyamlal Sahu Aged About 61 Years S/o Lt. Samaru Ram Sahu,
R/o Village Chichbord, Tahsil Gunderdehi, P. S. Ranchirai District
Balod Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through, The Collector Dist Balod Chhattisgarh
2. The Police Station Incharge, Ranchirai, District Balod Chhattisgarh
3. The Gram Panchayat Chichbord Through Sarpanch Chichbord District Balod Chhattisgarh.

--- Respondents

For petitioner –Shri Rudra Nath Mukherjee, Advocate.
For State- Smt. Richa Shukla, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****05/09/2019**

Heard.

1. Instant petition has been filed for the following reliefs:-

“(a) That, this Hon'ble Court may kindly be pleased to direct the concerned authority(s) to take necessary steps against the villagers regarding the situation so that petitioner may live peacefully where he resides.

(b) That, the Hon'ble Court may kindly be pleased to issue appropriate writ/order/direction thereby directing the concerned authority(s) to take stringent action against the accused who formulate and lead this action.

(c) Any other relief which the Hon'ble Court deems fit and proper in the circumstances of the case may also be awarded.”

2. It is contended on behalf of the petitioner that on 6/07/2015 few of the village people of village Chichbord asked the petitioner to donate some portion of the land which belong to the petitioner and was forced to

make sign over the blank paper. The petitioner subsequently since did not follow the direction of the villagers and did not donate the land, the petitioner finally was asked to pay a fine of Rs.10,000/- to the village panchayat and subsequently he was subjected to social boycott and resolution was passed by the village that if someone intermeddles with the petitioner heavy penalty would be imposed. Against such action instant petition is filed.

3. In reply of the State it is contended that an enquiry was made by the police since similar complaint was made by the petitioner before the police station. On such enquiry it revealed that the petitioner has encroached upon certain grass land. Consequently, it lead to a dispute and a case under section 107 and 116(3) of Cr.P.C. has been filed against both the parties. In reply the State has completely disowned the averments made in the petition. It is stated that the gram sabha unanimously passed the resolution for removal of the encroachment done by the petitioner and his son and for cancellation of the lease (patta) that is the main reason the facts have been exaggerated and complaint before the police including this petition have been filed.

4. Heard learned counsel for the parties.

5. Perused the documents filed along with the petition.

6. Along with the return Annexure R-1/1 is filed which is communication by the SHO, Thana Ranchirai, District Balod to the Superintendent of Police, Balod wherein it has been informed that action under section 107, 116(3) of Cr.P.C. has been commenced against the petitioner as also other villagers since dispute arose over a piece of land which was grass land given to the petitioner in the year 1990.

7. Another document of Gram Panchayat, Chichbord dated 25/06/2016 is placed on record which purports that a resolution was passed against the petitioner to vacate the land which is government land

wherein the petitioner has encroached and sent to the Chief Executive Officer, Janpad Panchayat, Gunderdehi. It is stated by the Gram Panchayat that no resolution of like nature have been passed. Copy of the resolution is also placed on record which do not fortify the fact that the petitioner has been socially boycotted. The resolution on the other hand speaks that the dispute arose for removal of certain encroachment. Consequently, prima facie it shows that no such resolution exist as on date whereby the petitioner has been subjected to social boycott.

8. Documents filed along with the rejoinder would show that certain complaints have been filed by the petitioner wherein notices have been issued. Complaint is under sections 147, 383, 500, 506(b)/34 of the IPC. One more order Annexure R/2 has been filed which is dated 14/03/2016 passed by the Second Additional District Judge, Balod wherein injunction order have been passed in favour of the petitioner. Taking into the reply and document, specially the resolution of gram sabha which do not say about any social boycott of petitioner after considering totality of the facts, it appears that disputed question of fact comes to fore which cannot be adjudicated in this writ petition. The petitioner has claimed that he has been socially boycotted but the return filed by the State has negated the same which is corroborated and supported by the resolution of the gram sabha.

9. In the result, prima facie it cannot be held that the petitioner is subjected to social boycott. If the petitioner still is aggrieved then he has to prove his case beyond reasonable doubt by taking necessary steps before the competent court for which detail evidence would be required. In adjudication of this petition under Article 226 of the Constitution of India this court cannot make a roving enquiry to collect the evidence. The petitioner if so advised would be at liberty to file appropriate case for remedy available to him under the law. No relief can be granted in this

petition.

10. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE