

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 3546 of 2019

Adhar Singh S/o Manbodh Singh Aged About 70 Years, R/o Village Kuthroud, Tahsil Simga, District Balodabazar-Bhatapara, Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Revenue Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
2. Collector Balodabazar, District Balodabazar-Bhatapara, Chhattisgarh.
3. Parmeshwar S/o Keju Ram Aged About 55 Years
4. Santosh S/o Keju Ram Aged About 46 Years
No. 3&4 are R/o Village Kuthroud, Tahsil Simga, District Balodabazar-Bhatapara, Chhattisgarh.
5. Jhadu Ram S/o Ganga Ram Aged About 55 Years
6. Poush Ram S/o Ganga Ram Aged About 50 Years
No. 5&6 are R/o Village Vishrampur, Tahsil Tilda, District Balodabazar-Bhatapara, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Nasimuddin Ansari, Advocate.
For State	:	Shri Ayaz Naved, Deputy Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04.12.2019

1. Challenge in the present Writ Petition is to the order dated 19.08.2019 passed by the Incharge Collector, District Baloda Bazar, Bhatapara.
2. The petitioner had moved an application before the respondents under Section 165(6) of the Land Revenue Code seeking permission for exchange of land belonging to the petitioner with the private respondents No.3 to 6. The said application has been rejected by the Incharge Collector vide impugned order only on the ground that the application has not been filed under the proper provisions of law.
3. This court, prima facie, is of the opinion that the said ground of rejection or return of the application is too hyper technical. The authorities concerned

could have permitted the petitioner to cure the defects by making necessary correction in the application itself instead of forcing the petitioner to again approach the authorities by way of a fresh application. Such order increases the litigation unnecessary. Things which can be cured should be permitted to be cured and which are not very germane to the issue involved in the matter.

4. Given the said facts, this court is of the opinion that the impugned order is not sustainable and the same is set aside/quashed and the matter stands remitted back to the respondents for deciding the matter afresh after permitting the petitioner to make necessary correction in the application so far as the clause under which he has moved his application for grant of permission for exchange of land is concerned.
5. Let the petitioner appear before the concerned respondent along with a copy of this order on 23.12.2019 on which the respondents shall further proceed with the matter and decide the same on its own merits at the earliest.
6. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge