

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

REVP No. 216 of 2019

1. Jhadi Ram, S/o Amelal, Caste - Suryavanshi, R/o Village Pachpedi, Tahsil Masturi, District : Bilaspur, Chhattisgarh
2. Kaliram, S/o Chhedilal, Caste - Suryavanshi, R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.
3. Siyaram, S/o Firtu, R/o Village Pachpedi Tahsil Mastur , District Bilaspur Chhattisgarh.
4. Surendra Kumar, S/o Mahesh Ram, Caste Suryavanshi, R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.
5. Uma, S/o Baijnath, Caste Suryavanshi , R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.
6. Arun, S/o Jagatu Caste Kalar , R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.
7. Gandhi, S/o Baldau, Caste Suryavanshi , R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.
8. Raj Kumar, S/o Baldau , Caste Suryavanshi , R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.
9. Vijay Kumar, S/o Sakha, Caste Patwa , R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.
10. Amar Singh, S/o Chhedi Singh, Caste - Kshatri , R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.
11. Ramsagar, S/o Chitram, Caste Suryavanshi , R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.
12. Dhanesh, S/o Bhagela, Caste Suryavanshi , R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.
13. Basant, S/o Bhagela, Caste Suryavanshi , R/o Village Pachpedi, Tahsil Masturi, District Bilaspur Chhattisgarh.

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Versus

1. Bhushan Prasad Madhukar, S/o Late Derha Prasad Madhukar, Aged About 50 Years, Caste Suryavanshi, R/o Pachpedi, Tahsil Masturi, District : Bilaspur, Chhattisgarh
2. State Of Chhattisgarh Through The Secretary, Urban Administration And Development Department Mahanadi Bhawan Atal Nagar Nawa Raipur, District : Raigarh, Chhattisgarh
3. Collector -Bilaspur, District : Bilaspur, Chhattisgarh
4. Nayab Tahsildar-Masturi, District : Bilaspur, Chhattisgarh
5. Station House Officer, Police Station-Pachpedi, District : Bilaspur, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Vinod Deshmukh, Advocate
For State	:	Smt. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

20.11.2019

1. The present Review Petition has been filed seeking review of the Order dated 15.10.2019 passed in WPC No. 3652 of 2019.
2. The matter pertains to alleged illegal encroachment made by the petitioner (applicant herein). The petitioner namely, Bhushan Prasad Madhukar has filed a writ petition stating that he has already an order in his favour from the Nayab Tahsildar and the same has attained finality and the respondents authorities may be instructed to execute the order of the Nayab Tahsildar. This Court while disposing-off the writ petition made the following observations:

“3. Given the fact that there is already an order passed by the Nayab Tahsildar on 20.06.2019 and there is also an order dated 22.07.2019 passed by the Nayab Tahsildar for removing of the encroachment and for restoring the possession of land to the petitioner. It goes without saying

that unless the order of the Nayab Tahsildar is challenged before a higher forum and is either stayed or set-aside/quashed by the higher authorities, the order so passed under the provisions of the Chhattisgarh Land Revenue Code has to be implemented in its letter and spirit.

4. Without expressing any opinion on the merits of the order passed by the Nayab Tahsildar, subject to verification of the same by the authorities concerned, if required, so far as the claim of the petitioner is concerned, it is expected that the respondents No. 2 & 3 shall take all necessary steps including taking assistance of the police force in getting the order executed at the earliest preferably within a period of 60 days from the date of receipt of the copy of this order.

5. It shall be the responsibility of the petitioner to apprise the respondents No. 2 & 3, so also the other respondents, so far as the order passed by this Court is concerned.”

3. Now, the Review Petition has been filed by the present applicant stating that against the order of the Nayab Tahsildar dated 20.06.2019, he had already preferred an appeal before the Sub-Divisional Officer which has not been disclosed by the petitioner when the writ petition was being disposed-off. That the writ petition was disposed-off only taking the order of the Nayab Tahsildar into consideration.
4. In the given facts this Court is of the opinion that the ground raised by the applicant seeking review is not a ground for review for the simple reason that this Court while disposing-off the writ petition had specifically directed the authorities concerned in paragraph 4 to take steps only after the verification of fact, which impliedly means whether the order of Nayab Tahsildar has attained finality inasmuch as whether there was any appeal preferred against the said order and also to verify the fact, whether there was any stay in operation against the effect and operation of the order of Nayab Tahsildar.

5. Needless to mention that in the event of there being any appeal preferred against the order of Nayab Tahsildar against the subsequent appellate authorities, the authorities have to verify the fact, whether there is any stay on the effect and operation of the order of Nayab Tahsildar or not.
6. Without verification of the fact, the authorities are expected not to proceed further only in the garb of the order passed by this Court in WPS No. 3652 of 2019. In the event, if on verification the authorities find that there is any interim order staying the effect and operation of the order of Nayab Tahsildar, the authorities would be at liberty to take appropriate decision in accordance with law.
7. With the aforesaid observation, the present Review Petition stands disposed-off. It is further clarified that the appeal which are pending consideration before the authorities concerned would be decided on its own merit without being in-any-manner getting influenced by the Order passed by this Court on 15.10.2019.
8. The Review Petition, therefore, stands disposed-off.

**Sd/-
(P. Sam Koshy)
Judge**