

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 4334 of 2019

1. Kanhaiya Lal Patel, S/o Shri Khushi Ram Patel, Aged About 57 Years, R/o Village Pandaripani, Block-Kharsia, District: Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Food Civil Supplies And Consumer Protection Department Education, Mahanadi Bhawan, Mantralaya, Naya Raipur, District : Raipur, Chhattisgarh
2. Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, District : Raipur, Chhattisgarh
3. Commissioner Cum Director, Directorate Of Food Civil Supplies And Consumer Protect, Indravati Bhawan, Naya Raipur, District : Raipur, Chhattisgarh
4. Collector-Raigarh, District : Raigarh, Chhattisgarh
5. Sub Divisional Officer (R) Kharsia, Block-Kharsia, District : Raigarh, Chhattisgarh
6. Tahsildar, Block And Tahsil-Kharsia, District : Raigarh, Chhattisgarh

-----Respondents

For Applicant	:	Mr. Jeet Patel, Advocate
For State	:	Mr. V.R. Tiwari, Addl. Adv. General

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

29.11.2019

1. The challenge in the present Writ Petition is to the order dated 26.10.2019 passed by the Tahsildar-Kharsia, whereby the Tahsildar ie., Respondent No. 6 has refused to register the name of the petitioner for the purpose of purchasing paddy.

2. The reason for non-granting registration was that the land, over which the petitioner is said to have cultivated is not in the name of the petitioner. The petitioner at this juncture produces a documents ie., the Order of this Hon'ble High Court passed in Second Appeal No. 441 of 2017, wherein this Court has on 14.07.2017 granted an interim protection to the petitioner.
3. What is clearly reflected from the order of this Court in the Second Appeal dated 14.07.2017 and the order of the Tahsildar dated 26.10.2019 that admittedly as on date the petitioner is in possession of the land. It is not in dispute that petitioner is now the person who is cultivating over the said land. It is also apparently clear that the petitioner has some interim protection from the High Court in Second Appeal No. 441 of 2017. As a consequence of the interim protection by the High Court, the petitioner would continue cultivating over the said land till the second appeal is either finally decided or the High Court vacates the interim order earlier granted on 14.07.2017. As long as the order dated 14.07.2017 stands, the petitioner has a right to continue cultivation over the said disputed land and, therefore, he has a right to sell his paddy to the concerned society. The Tahsildar has wrongly held that the petitioner does not own the said land and ,therefore, has refused to register his name. What is to be deemed is that there is an interim protection, so far as the possession of the land by the petitioner is concerned, therefore, till the order dated 14.07.2017 is not modified or the Second Appeal No. 441 of 2017 is not finally decided, let the Respondent No. 6 consider the petitioner's case for grant of temporary registration which would enable him to

sell his paddy. The situation cannot be created where the paddy cultivated by the petitioner cannot be sold which otherwise is his only source of income.

4. Given the said facts, let the Respondent No. 6 immediately reconsider the case of the petitioner for grant of temporary registration, subject to the outcome of the Second Appeal No. 441 of 2017 or vacating of the interim order dated 14.07.2017 whichever is earlier.
5. The present Writ Petition accordingly stands allowed and disposed off.

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