

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 25 of 2020

1. Ganpat Pav S/o Barat Ram Pav, Aged About 50 Years, R/o Moudhabhatha (Mundhabhatha) Bakeli Ward No.7, Raigarh Jharadih Chhattisgarh. Presently residing At Janjgir, Police Station and Tahsil-Janjgir, District- Janjgir Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
2. Smt. Dev Kunwar W/o Ganpat Pav, Aged About 49 Years, R/o Moudhabhatha (Mundhabhatha) Bakeli Ward No.7, Raigarh Jharadih Chhattisgarh. Presently residing at Janjgir, Police Station and Tahsil-Janjgir, District- Janjgir Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

Claimants

---- Petitioners

Versus

1. Devlal Gond S/o Shri Dhaneshwar Gond, Aged About 32 Years, R/o Ludara, Nawapara, Police Station- Ludara, Ambikapur, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh
2. Sanjay Tamrakar S/o Shri Shivshankar Tamrakar, R/o Jodhapipal, Near Kumkum Hotel, Ambikapur, District Surguja, Chhattisgarh. (Vehicle Bus No. CG-15 Ab-4815), District : Surguja (Ambikapur), Chhattisgarh
3. United Insurance Co. Ltd. Through- Manager, Bramh Road, Near Kumkum Hotel Ambikapur, District Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

Non-applicants

----Respondents

For Petitioners – Shri Hanuman Prasad Agrawal, Advocate.
For Respondent No.3 – Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

09-03-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 23-09-2019 passed by learned MACT, Janjgir Champa, by which the application filed by the petitioners for premature release of the amount in fixed deposits has been partially allowed which is not sufficient to meet the need of the petitioners.
2. It is submitted that the prayer for premature disbursal was made on the

ground that the petitioners are constructing house for which the engineer has given estimate of Rs.7,45,895/-. The MACT has called a report from Police Station Kharsiya which also confirmed that the petitioners need a construction to be made, even then the order has been passed for disbursing amount of Rs.1,00,000/- to the petitioners. The amount so released is insufficient. Therefore, it is prayed that the impugned order be interfered with.

3. Learned counsel for respondent No.3 makes formal objection.

4. Heard learned counsel for the parties and perused the documents.

5. On perusal of the impugned order, it is found that the prayer made by the petitioners was bonafide as it has been held by learned MACT itself. The estimate for the said construction is also not disputed. Learned counsel for the petitioners placed reliance on the judgment of this Court in the matter of **Rajeshwari Singh Vs. Laxmi Prasad & others**, (2017) 1 CG.L.J. 537, in which it has been held that the Tribunal should not mechanically dispose off the application filed for premature release of the amount in fixed deposit and discretion should be exercised in a proper manner in the larger interest of the claimant.

6. Considering that the bonafidy of the prayer made by the petitioners being found established and also that the petitioners do not have any other sources to make arrangement for the said construction, hence, leaving the petitioners to seek loan from bank or money lenders appears to be inappropriate for the reason that there is amount in fixed deposits present. As the disbursal in such a case shall be only for the benefit of the petitioners themselves, hence, the Tribunal should have been more lenient in releasing the amount in fixed deposits.

7. Accordingly, this petition is disposed off at motion stage and it is ordered that further release of Rs.2,50,000/- and Rs.2,50,000/- be made in favour of

the petitioners by the Tribunal so that the requirement of the petitioners is met with.

8. The petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge