

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 47 of 2018**

1. Mohini Devi Sharma Wd/o Late Prahlad Rai Sharma, Aged About 73 Years, R/o Ward No. 5, Ram Mandir Para, Kotba, Tahsil- Pathalgaon, District- Jashpur, Chhattisgarh
2. Kanhiya Sharma S/o Late Prahlad Rai Sharma, Aged About 52 Years R/o Ward No. 5, Ram Mandir Para, Kotba, Tahsil- Pathalgaon, District- Jashpur, Chhattisgarh
3. Khushi Ram Sharma S/o Late Prahlad Rai Sharma, Aged About 52 Years, R/o Ward No. 5, Ram Mandir Para, Kotba, Tahsil- Pathalgaon, District- Jashpur, Chhattisgarh
4. Balkrishan Sharma S/o Late Prahlad Rai Sharma, Aged About 48 Years, R/o Ward No. 5, Ram Mandir Para, Kotba, Tahsil- Pathalgaon, District- Jashpur, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary - Urban Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, District- Raipur, Chhattisgarh
2. Collector Jashpur, District - Jashpur, Chhattisgarh
3. Sub-Divisional Officer (R) Pathalgaon, District - Jashpur, Chhattisgarh
4. Nagar Panchayat Through Chief Municipal Officer, Kotba, Tahsil- Pathalgaon, District- Jashpur, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Anup Majumdar, Advocate
For State/Respondents 1 to 3	:	Mr. Ayaz Naved, Govt. Advocate

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

21.01.2020

1. The limited grievance of the petitioners in the present writ petition is that the petitioners' land at Khasra No. 311 measuring 0.417 hectare at Nagar Panchayat Kotwa, District Jashpur over which they have a Bhumi Swami right has been illegally taken over by the respondent no.4 and constructed market over an area of 0.085 hectare of land. According to the petitioners, if at all the respondents intended to take the property of the petitioners, they should have paid compensation or in lieu should have granted alternate land to the petitioners. According to the petitioners, they have already made detailed representation in this regard to the respondents 2 to 4 which till date has not been decided.
2. State counsel appearing for the respondents 1 to 3 on the other hand submits that the whole issue can be resolved only after reaching to a conclusion that the land over which the respondent no.4 has constructed market is in fact the land over which the petitioners have a Bhumi Swamin right. This can be done only after proper identification of the property and proper demarcation having been done.
3. At this juncture, counsel for the petitioners submits that the demarcation of the property has also been done and that would also show that the land over which the market has been constructed partly falls upon the land belonging to the petitioners.
4. Be that as it may, this Court is of the opinion that the grievance of the petitioners can be redressed if the petitioners are permitted to make a

fresh representation and claim to the respondent no.2 who in turn shall get the property identified and measured and subsequently take appropriate steps for ventilating the grievance of the petitioners by either providing compensation to the petitioners or providing alternative land in lieu of the land which has been taken over by the respondent no.4 in accordance with the rules and regulations governing the field.

5. Subject to the petitioners approaching respondent no.2 within a period of 3 weeks from today, the respondent no.2 in turn is directed to decide the representation of the petitioners after due verification of facts and taking into consideration the views of the respondent no.4 also, within a period of 4 months from the date of receipt of representation of the petitioners.
6. The writ petition accordingly stands disposed of.

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