

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 674 of 2020

1. Purshottam Ganda S/o Late Bauwla Aged About 58 Years R/o Godgodhi, Tahsil Sakti, District : Janjgir-Champa, Chhattisgarh
2. Samarin Wd/o Bauwla Aged About 70 Years R/o Gadgodhi, Tahsil Sakti, District : Janjgir-Champa, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mahanadai, Bhawan Mantralaya, Atal Nagar, Naya Raipur, District : Raipur, Chhattisgarh
2. Collector Janjgir, District : Janjgir-Champa, Chhattisgarh
3. Sub Registrar (Under The Registration Act). Sakti, District : Janjgir-Champa, Chhattisgarh
4. Ashwani Kumar Dewangan S/o Kaushal Prasad Dewangan Aged About 52 Years R/o Sakti , Tahsil Sakti, District : Janjgir-Champa, Chhattisgarh
5. Prem Kumar Dewangan S/o Late Yadev Prasad Dewangan R/o Sakti , Tahsil Sakti, District : Janjgir-Champa, Chhattisgarh

---Respondents

For Petitioners	:	Mr. Kishore Narayan, Advocate
For State	:	Mr. Somkant Verma, P. Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19.02.2020

1. The challenge in the present writ petition is to the order passed by the Collector, District: Janjgir-Chapa dated 13.09.2019. Vide the said impugned order, the petitioner has moved an application seeking

permission to sell the property, which has been rejected by the Collector.

2. The contention of the counsel for the petitioner is that, the property situates at Khasra No. 585/2 measuring area 1.5 acres. The said land was allotted to the petitioner's father on his retiring from the Armed Forces i.e. Border Security Force. The allotment of the lease was done way-back in 1982 and thereafter the petitioner derived Bhoomi Swami Rights over the said property. The father of the petitioner died in the year 1988 and thereafter the property stood mutated in the name of the petitioners being the legal heir. The petitioner now in-order-to clear some debts that he has, wants to sell some portion of the property.
3. For the said reasons, the petitioner entered into an agreement with the respondent no. 4 and 5, who are willing to purchase the property of the petitioner. Before registration, the petitioner is asked to get permission from the District Collector in this regard. The petitioner thereafter moved an application and it is this application seeking permission to sell the property, which has been refused by the Collector.
4. The only reason assigned in the application is that it is not supported with all the details of the debts that the petitioner has and who are the debtors, what is the amount payable to each of the debtors.
5. The contention of the counsel for the petitioner is that there is no such requirement under the rules and regulation which requires providing of such details. Moreover, according to the counsel for the

petitioner, the Collector could have asked the petitioner for details instead of rejecting the same. The contention of the counsel for the petitioner is that, once when the petitioner is a Bhoomi Swami of the said property, there is no embargo under any law to prevent him from selling the property. It is also his contention that the petitioner at the time of allotment of the lease also, there was no such condition that the said property could not be alienated by his father or any of his legal heirs.

6. The aforesaid submissions made by the counsel for the petitioner is not disputed by the State counsel. However, the State counsel submits that the application has been rejected for want of necessary details, which the petitioner should have furnished at the time of filing an application itself. The order passed by the Court seems to be protecting the interest of the petitioner as he belongs to the Scheduled Caste Category and, therefore, instead of becoming landless at a later stage, the Collector has taken into consideration this aspect also while rejecting his application.
7. Given the facts and circumstances of the case, there is no hesitation in reaching to the conclusion that the finding given by the Collector is totally devoid of merits as neither has the Collector given any reasons or a speaking order to show why the petitioner's application deserved rejection. It was expected that the Collector to refer to the rules, provisions which requires the details of the debts. It was also necessary for the Collector to have taken-into-consideration the fact that while allotment of the land was made, there was no such

condition that the property could not be resold upon the allotment being made to the petitioner.

8. Given the facts and circumstances of the case, this Court is of the opinion that ends of justice would meet, if the order dated 13.09.2019 is set-aside/quashed and accordingly the matter is remitted back to the Collector, District: Janjgir Champa to reconsider his application and decide the same on the merits at the earliest, preferably within a period of thirty days from the date of receipt of copy of this Order.
9. It is also relevant to point-out the fact that the petitioner does not belong to the Scheduled Tribes Category but belongs to the Scheduled Caste Category and, therefore, the law which applies over the property of a Scheduled Tribe may not be applicable so far as the person belonging to the Scheduled Caste Category is concerned.
10. With the aforesaid observations, the present Writ Petition stands disposed-off.

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