

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 600 of 2020

1. Smt. Rajkumari Shriwas @ Rajkumari, W/o Shobharam, aged about 59 Years, R/o Janjgir, Police Station and Post Janjgir, District Janjgir Champa (C.G.)
2. Vikas Paliwal S/o Shri Narendra Paliwal, aged about 43 Years, R/o Ward No. 6, Janjgir, District Janjgir-Champa (C.G.)
3. Naveen Rathore, S/o Bisahu Prasad Rathore, aged about 46 Years, R/o Ranipara, Janjgir, District Janjgir-Champa (C.G.)
4. Ravindra Dwiwedi, S/o Bhagwat Prasad Dwivedi, aged about 52 Years, R/o Village Sukli, Janjgir, District Janjgir-Champa (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, through Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur (C.G.)
2. Collector, Janjgir-Champa, District Janjgir-Champa (C.G.)
3. Tahsildar, Janjgir, Tahsil Janjgir, District Janjgir-Champa (C.G.)
4. Sub Divisional Officer (Revenue), Janjgir, District Janjgir Champa (C.G.)

---- Respondents

For Petitioners	:	Shri Manoj Paranjpe, Advocate.
For Respondent/State	:	Shri Ayaz Naved, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

11/02/2020

1. In the present writ petition, the relief sought for by the petitioner writ petition is for quashing of the advertisement dated 28/01/2020 whereby the property which was originally leased out to the petitioner

as early as on 16/01/1978 is also included in the list of land which has been put for auction. The grievance of the petitioner is that, the lease which was granted to the petitioner on 16/01/1978 was subsequently ordered to be cancelled by the Collector vide memo dated 27/03/1989. The said auction was subjected to challenge in a revision before the Board of Revenue which initially allowed the application for revision of the petition on 18/01/2010. Subsequently the Collector moved a review application seeking review of the order dated 18/01/2010 and the Board of Revenue vide its order dated 05/03/2016 allowed the review petition and in the process rejected the revision on merits. This order dated 05/03/2016 was subjected to challenge in a writ petition before this Court i.e. WP(C) No. 1136/2016. This Court vide its order dated 21/07/2017 allowed the same and held that on allowing the review petition the original revision itself cannot be decided on merits. The revision has to be decided on its own merits separately and for this reason the matter was remitted back to the Board of Revenue.

2. The said revision petition as per petitioner's contention, is still pending consideration before the Board of Revenue. Meanwhile, the respondents now vide advertisement dated 28/01/2020 have put certain government lands for auction and in the list of the land the property which was earlier leased out to the petitioner has also been reflected as having being put for auction.
3. The only grievance of the petitioner at this juncture is that if the Board of Revenue finally allow the revision petition, the petitioner would find it difficult in getting the property back in case if the property is put to auction as per advertisement Annexure-A1. This would cause irreparable loss to the petitioner particularly in respect of property which is in possession of the petitioner since 16/01/1978.
4. The limited prayer that the petitioner has made at this juncture is that till the revision is decided by the Board of Revenue the said property may not be put on auction by the respondents and the same may be put on auction only after to the out come of the revision petition.

5. The State Counsel however opposing the petition submits that since the revision petition has been reopened as per the direction given by this court on 21/07/2017, the position as it stands would be the order of the Collector in issuing the memo asking the Tehsildar for cancelling the lease comes into operation and as such the petitioner does not have right over the said property as on date till it is finally adjudicated by this Board of Revenue. According to the respondents the implication of the order of the Collector is that the lease stands cancelled.
6. Having heard the contentions put forthon either side and on perusal of records, particularly taking note of the fact that the property is in possession of the partitioner since 16/01/1978 i.e. almost about 42 years and the revision petition of the petitioner against the memo of the Collector seeking cancellation of the lease is still pending consideration before the Board of Revenue, it would be in the larger interest that the said property which was leased out to the petitioner on 16/01/1978 be kept out of the auction till the revision is finally decided by the Board of Revenue.
7. Accordingly, the present writ petition stands allowed to be extent that the advertisement dated 28/01/2020 would be confined only to the other properties except for the property in dispute pending before the Board of Revenue, so far as the petitioner is concerned and which shall be, if required put to auction only after the out come of the revision.
8. The writ petition accordingly stands allowed and disposed of.

-Sd/-
(P. Sam Koshy)
Judge