

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1290 of 2020**

1. Sheikh Hamid S/o Jilahir, Aged About 45 Years, R/o Village And Post-Lakhna, Near New Masjid, Close To Railway Station, Nuvapada, P.S. Lakhna, Tehsil And District- Nuvapada (Odisha)
2. Fatima D/o Jilahir, Aged About 35 Years, R/o Village And Post-Lakhna, Near New Masjid, Close To Railway Station, Nuvapada, P.S. Lakhna, Tehsil And District- Nuvapada (Odisha)
3. Najma D/o Jilahir, Aged About 33 Years, R/o Village And Post-Lakhna, Near New Masjid, Close To Railway Station, Nuvapada, P.S. Lakhna, Tehsil And District- Nuvapada (Odisha)

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Collector Mahasamund, District- Mahasamund, Chhattisgarh
2. Tehsildar Bagbahara District- Mahasamund, Chhattisgarh
3. Naib Tehsildar, Bagbahara, District- Mahasamund, Chhattisgarh
4. Superintendent Of Police, Mahasamund, District- Mahasamund, Chhattisgarh
5. Station House Officer, Komakhan, Tehsil- Bagbahara, District- Mahasamund, Chhattisgarh
6. Yusuf Ali S/o Noor Ali, Aged About 60 Years, Occupation- Driver, R/o Bhanpuri, Rameshwar Nagar, Birgaon, Raipur, District- Raipur, Chhattisgarh
7. Sub- Divisional Officer (Revenue)/ Sub-Divisional Magistrate Bagbahara, District- Mahasamund, Chhattisgarh,

---- Respondents

For Petitioners	:	Mr. Surfaraj Khan, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

24.06.2020

1. The challenge in the present writ petition is to the order Annexure P-1 dated 24.04.2020 passed by Naib Tahsildar Bagbahara (Respondent No.3). On a complaint being lodged by the respondent no.6, the Naib Tahsildar registered a revenue case and passed the impugned order on 24.04.2020 alleging fraud to have been played by the petitioners and also ordered for registering an FIR in the concerned Police Station.
2. The contention of the counsel for the petitioners is that the filing of complaint and the passing of order were never intimated to the petitioners. Counsel for the petitioner submits that no notice whatsoever has been issued by the Naib Tahsildar before passing the impugned order on 24.04.2020. The further contention of the counsel for the petitioner is that the Naib Tahsildar as such does not have the power to get an FIR registered under the provisions of the Land Revenue Code as the said Code does not prescribe any such provision which empowers the Naib Tahsildar for passing such an order.
3. State counsel however opposing the petition submits that the petitioners have an alternative remedy for preferring a review under Section 51 of the Land Revenue Code before the Naib Tahsildar. State counsel further submits that the impugned order dated 24.04.2020 shows that there is an act of fraud or cheating committed

by the petitioners and therefore, the authority has got all the powers to lodge an FIR in respect of a cognizable offence which has been found to have been committed in the course of registration of the name of the petitioners over the land over which the respondent no.6 also claims to have a right.

4. Given the facts and submissions by the counsel appearing on either side, and from perusal of the record, admittedly it appears that before passing the order dated 24.04.2020 the Naib Tahsildar had not issued any notice to the petitioners nor were the petitioners given an opportunity to explain their act or in respect of the complaint that has been alleged by the respondent no.6.
5. In view of the same, this Court is of the opinion that ends of justice would meet if the petitioners are permitted to approach the respondent no.3 by moving an appropriate revenue petition under Section 51 of the Chhattisgarh Land Revenue Code. The respondent no.3 in turn shall consider the case of the petitioners afresh on merits after hearing the petitioners as well as giving them an opportunity to explain so far as the allegations which have been made by the complainant respondent no.6. It is ordered accordingly.
6. Needless to mention that since the matter is being disposed of permitting the petitioners to prefer a review petition, it is ordered that till the petitioners file a review and a fresh order is passed by the Naib Tehsildar on the review, the impugned order Annexure P-1 dated 24.04.2020 shall be kept in abeyance. The petitioners shall file the review within a period of 15 days from the date of receipt of copy of this order. Needless to further mention that the observations made by this

Court would be applicable only in the event if the order dated 24.04.2020 has not been acted upon till today.

7. The writ petition accordingly stands disposed of.

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

Khatai