

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPIL No. 67 of 2020**

Maninder Singh Tib S/o Avtar Singh Tib Aged About 59 Years R/o Near F.C.I. Gowdown, Opposite IOC Petrol Pump, Mungeli Road Bilaspur, District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through- Secretary Department of Revenue, Mahanadi Bhawan, Raipur, Chhattisgarh
2. Commissioner- Bilaspur Division- Bilaspur, Chhattisgarh
3. Collector District- Bilaspur, Chhattisgarh
4. Sub Divisional Officer, (Revenue) Bilaspur, District- Bilaspur, Chhattisgarh
5. Tehsildar Bilaspur District And Tehsil Bilaspur, Chhattisgarh
6. Uma Shankar Agrawal S/o Madan Lal Agrawal R/o Mungeli Road Mangla Bilaspur, Tehsil And District- Bilaspur, Chhattisgarh
7. Shibya Builders Through Director Rakesh Sharma S/o S.M. Sharma R/o House No. Lig-08, Amaltash Colony Narmada Nagar Bilaspur, Tehsil And District- Bilaspur, Chhattisgarh
8. Shibya Builders Through Director Sarita Sharma W/o Rakesh Sharma R/o Amaltash Colony Narmada Nagar Bilaspur, Tehsil And District- Bilaspur, Chhattisgarh
9. Superintendent of The Economic Offences Wing Raipur Presiding It's Office At Gaurav Path, Opposite Jai Jawan Petrol Pump, Telibandha, Raipur, Chhattisgarh
10. Superintendent of Police Bilaspur Office Of The Superintendent Of Police, Collectorate Campus, Near Nehru Chowk, Civil Lines, Bilaspur, Chhattisgarh. Pin- 495001
11. Vishesh Kartavya Adhikari (Special Officer On Duty For Diversion) Bilaspur, Diversion Office Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:Dr. N.K. Shukla, Senior Advocate with Shri Arjit Singh, Advocate.
For Respondents/ State	:Shri Chandresh Shrivastava, Deputy Advocate General.
For Respondents No. 6, 7 & 8	:Shri Manoj Paranjpe, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board**Per P. R. Ramachandra Menon, Chief Justice****17.11.2020**

1. The petitioner styled as a public spirited citizen has come up before this Court with the alleged conversion and diversion of the land at the hands of

the Private Respondents with the involvement of the Revenue Officials even by recording incorrect measurements in the relevant records.

2. The sum and substance of the grievance projected is that the Private Respondents have virtually appropriated Government lands, committed wrongful loss to the State and the complaints preferred before the Revenue Authorities have not evoked any positive response.
3. The prayers in the writ petition are in the following terms:

“10.1 That, the Hon'ble Court may kindly be pleased to call the entire records of the case, from the respondents.

10.2 That, the Hon'ble Court may further be pleased to issue an appropriate writ, order thereby directing the official respondents to correct measurement of Khasra Number 1487/1, 1487/8, 1487/9 in accordance of Sale deed executed by Previous owners of land i.e. Purshottam Bhai Patel Jasraj Bhai Patel and Parvat Bhai Patel in favour of Triveni Bai and Uma Shankar Agrawal respectively.

10.3 Since there is specific finding of Tehsildaar that Private respondents are in possession over the extended land or encroachment land hence it should be removed.

10.4 Since it is conversion of Public Property in favour of Private person the respondents No. 9 and 10 may be directed to register a case under Prevention of Corruption Act 1988 as Tehsildaar and Special Land Diversion officer is a public officer.

10.5 That, the Hon'ble Court may further kindly be pleased to issue an appropriate writ, order thereby directing the respondent State to conduct an enquiry in the matter which perhaps has caused loss of crores of rupees to the public exchequer and thereafter to take appropriate action against the concerned encroacher as per law.

10.6 Any other relief which this Hon'ble Court deems fit and proper may also kindly be granted to the petitioner, in the interest of justice.”

4. When the matter came up for consideration before this Court on 10.08.2020, urgent notice was ordered to the Respondents No. 6, 7, and 8 by speed post, as per the order which reads as follows:

Dr. N K Shukla, learned Senior counsel appearing on behalf of the petitioner submits that another right of the petitioner has been infringed and interest of the petitioner is only to protect and preserve the Government land, which actually is being encroached by the private respondents herein. Despite bringing the position to the notice of the Competent Authorities, no proper action has been taken. Learned Senior Counsel also submits that wrong entries have already been made in the revenue records and requests to have them corrected on the basis of actual facts and records is not acted upon and, hence, the grievance.

Shri S C Verma, the learned Advocate General appearing on behalf of the State submits that the idea and understanding of the petitioner is thoroughly wrong and misconceived. Time is sought for to file a statement showing the actual facts and figures.

Issue urgent notice to the respondents No.6, 7 & 8 by speed post. Post it for further consideration after two weeks.

Statement shall be filed by the State in the meanwhile."

5. On the receipt of notice, the Respondents No. 6, 7 and 8 appeared and filed their version, whereas time was sought for on behalf of the State Government to file their reply on 05.10.2020.
6. We heard Dr. N.K. Shukla, the learned Senior Counsel appearing on behalf of the Petitioner, Shri Chandresh Shrivastava, Deputy Advocate General appearing for the State and Shri Manoj Paranjpe appearing on behalf of Respondents No. 6, 7 and 8.
7. Respondents No. 6, 7 and 8 have described the flow of title and also as to the various steps taken by the erstwhile land owner to have the inadvertent mistakes which crept in the relevant records to be corrected. Reference is also made to the proceedings filed by the Petitioner before the Tahsildar and as to the order passed therein, virtually dismissing the prayer; from which appeal has been preferred by the Petitioner before the Sub Divisional Officer and it is stated as pending.

8. It is also pointed out that the answering Respondents have been enjoying the property with absolute ownership, possession and title for more than 3 decades, also remitting various taxes to the Authorities concerned. It is asserted from the part of the said Respondents that the Petitioner who is residing in the immediate neighbourhood is having 'personal interest' and that the petition is not liable to be entertained as 'public interest litigation', as no public interest is involved. Reference is also made to the various rulings rendered by the Apex Court as to the scope of entertaining the petitions styled as 'public interest litigation'.
9. In response to the returns filed by the Respondents No. 6, 7 and 8, the Petitioner has filed a rejoinder as well, pointing out that since he was not a party to the Sale Deeds or such other transactions which conferred title to the Private Respondents, he was not in a position to file any proceedings under the Chhattisgarh Land Revenue Code, 1959 and hence that the writ petition is quite maintainable.
10. When the matter is taken up for consideration, Dr. Shukla, the learned Senior counsel appearing for the Petitioner submits that, though the Respondents No. 6, 7, and 8 have filed their return, the version of the State is yet to come. The learned Senior Counsel submits that the writ petition might be disposed off without prejudice to the rights and liberties of the Petitioner to move the Authorities concerned, including the District Collector, by way of appropriate proceedings for redressal of the grievance.
11. Considering the nature of contentions raised from the both the sides and the submissions made across the bar, we do not think it necessary to go into the merits of the case. It is open for the Petitioner to pursue appropriate remedy in accordance with law before the Competent Authorities. If any such proceedings are filed, it shall be for the Competent Authority to deal with the

matter after affording an opportunity of hearing to the Petitioner and also to the Private Respondents / interested parties, in accordance with law.

With the above observation the writ petition stands disposed off.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Hem