

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2098 of 2020**

1. Dinesh Kumar S/o Ramkripal, Aged About 42 Years, R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya, Chhattisgarh
2. Rakesh Kumar S/o Ram Sai, Aged About 45 Years, R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya, Chhattisgarh
3. Ravishankar S/o Bindeshwari, Aged About 44 Years, R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya, Chhattisgarh
4. Krishna Kumar S/o Shyam Kartik, Aged About 42 Years, R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya, Chhattisgarh
5. Nand Lal S/o Indra Bahadur, Aged About 49 Years, R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya, Chhattisgarh
6. Shiv Prasad S/o Vikram Aged About 43 Years R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya, Chhattisgarh
7. Lalit Kumar S/o Ramprasad, Aged About 47 Years, R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya, Chhattisgarh
8. Ram Narayan S/o Nand Lal, Aged About 49 Years, R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya, Chhattisgarh
9. Basant Lal S/o Sita Ram, Aged About 50 Years, R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya Chhattisgarh
10. Jay Prakash S/o Bhuneshwar, Aged About 46 Years, R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya, Chhattisgarh
11. Parasnath S/o Son Sai Bargah, Aged About 43 Years, R/o Village Targawa, Tahsil And Police Station Patna, District Baikuntpur Koriya, Chhattisgarh

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Disaster Management, Mahanadi Bhawan, Mantralaya Atal Nagar, Raipur Chhattisgarh
2. Collector, District Baikuntpur Koriya, Chhattisgarh
3. Tahsildar Patna, District Baikuntpur Koriya, Chhattisgarh
4. Naib Tahsildar, District Baikuntpur Koriya, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Atanu Ghosh, Advocate
For State	:	Mr. Raghvendra Verma, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****15.09.2020**

1. The grievance of the petitioners in the present writ petition is the alleged action on the part of the respondents threatening to demolish the houses of the petitioners declaring them to be encroachers.
2. Counsel for the petitioners fairly conceded that the petitioners do not have any legal right over the property where they are dwelling. However, at the said place, the petitioners are staying from the time of their ancestors, they have constructed their houses and they are staying there for many decades.
3. Counsel for the petitioners submits that though no official communication is available with them but the respondents intend to remove the petitioners from the present place in order to construct "Gouthan" (cattle shed) at the said place. According to the petitioners, the said act on the part of the respondents would be too harsh for more than one reason; firstly they would be unsettling the human habitat and

would be giving preference to cattle protection. Secondly, during this peak Monsoon season, the petitioners would find it difficult to find a suitable alternative shelter. At this juncture, such an act on the part of the respondents is also not contemplated for the reason that the effect of COVID-19 pandemic is at the peak in the State of Chhattisgarh. Counsel for the petitioners further prays that let the respondents consider for grant of some suitable alternative accommodation or land whereby the petitioners can resettle themselves or else the petitioners would be left homeless/landless and would have no place to take shelter at.

4. State counsel, on the other hand, opposes the petition on the ground that undisputedly, the petitioners are encroachers and it is for this reason, the show cause notice was issued to the petitioners vide Annexure P-5. He submits that the petitioners have a right to approach the concerned Naib Tahsildar and submit a detailed reply which the concerned authority shall duly take into consideration before finalizing the same. He submits that since the petitioners are encroachers, there cannot be any rehabilitation package provided to the petitioners. Moreover, the respondents may not have sufficient accommodation available to be offered to the petitioners.
5. Be that as it may, considering the precarious situation that the country is facing because of COVID-19 pandemic and secondly taking into consideration the peak Monsoon season that is going on, in the opinion of this Court, it is not appropriate at this juncture for the respondents to initiate such a proceeding against the petitioners asking them to vacate the premises or the respondents or else taking steps in

demolishing the premises where the petitioners are residing. Moreover, what needs consideration is the fact that it is not just these 11 petitioners who would be affected by the action of the respondents, the entire family dependent upon each of the petitioners would all get equally adversely affected in the event the shelter where the petitioners are residing is demolished at this juncture.

6. The respondent State is always expected to act as a model State by ensuring proper protection to its citizens. The respondents need to consider this aspect that the petitioners are staying at the present location for decades together and by efflux of time, they have gathered some right in their favour for being retained at the said place. It is always expected that when the State Govt. intends to demolish a particular area consisting of large number of persons and houses, they shall take care of the need of those persons who get displaced, by providing them reasonable and fair alternative shelters wherein they could move themselves upon being displaced ensuring safety and protection apart from the persons displaced but also to their household items.
7. Given the said facts, this Court is of the opinion that ends of justice would meet if the petitioners are directed to approach the respondents by filing a detailed reply to the show cause notice issued to them. The petitioners are also directed to file detailed representations collectively to the respondent no.2 who in turn, after submission of the reply of the petitioners to the show cause notice, shall consider the claim of the petitioners sympathetically exploring the possibility of providing some alternative suitable accommodation or land to the petitioners wherein

these petitioners can take refuge on the demolition of their present houses in case need so arises. It is also directed that the respondents shall after the passing of the fresh order if they still decide for the removal of the petitioners, they shall give a reasonable time to the petitioners to shift before taking any coercive steps like demolition.

8. Till a decision is taken by the respondent no. 2, the respondents are restrained from taking any coercive steps against the petitioners.

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