

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2099 of 2020

1. Shiv Furniture Mart Through Owner Buchul Sharma S/o Bal Kishun Sharma, Aged About 65 Years, R/o Power House Road, Korba, District : Korba, Chhattisgarh
2. Shukla Daily Needs Through Owner Indrabhushan Shukla S/o Taradin Shukla Aged About 58 Years R/o Power House Road, Korba, District Korba Chhattisgarh.
3. Devbhog Milk Parlour Through Owner Tarkehrwar Shukla S/o Taradin Shukla Aged About 48 Years R/o Power House Road, Korba, District Korba Chhattisgarh.
4. Shukla Chaadar Centre Through Owner Tarkeshwar Shukla S/o Taradin Shukla Aged About 48 Years R/o Power House Road, Korba, District Korba Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Revenue Department, Mahanadi Mantralay, Naya Raipur, District : Raipur, Chhattisgarh
2. Tehsildar Korba, District : Korba, Chhattisgarh
3. Estate Officer, Chhattisgarh State Power Production Company Limited, Korba (East), District : Korba, Chhattisgarh

----- Respondents

For Petitioner	:	Mr. Sanjay Patel, Advocate.
For State/Resp. No. 1 & 2	:	Mr. Siddharth Dubey, Dy. G. A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23.09.2020

1. The grievance of the petitioners in the present writ petition is the initiation of the eviction proceedings against them under Section 248

of the Chhattisgarh Land Revenue Code, 1959.

2. According to the counsel for the petitioners, the property over which the petitioners are having small shops thereby running their business for quite some time is a property which vests with the Chhattisgarh State Power Production Company Ltd., thereby the proceedings under the Land Revenue Code could not have been initiated by the State authorities, particularly under Section 248 of the Chhattisgarh Land Revenue Code, 1959. The counsel for the petitioners further submits that they have already raised a preliminary objection in-respect-of the authority of the Tashildar for questioning the initiation of proceedings u/s 248 of C.G.L.R.C.. However, the Tahsildar seems to be not interested in deciding the preliminary objection and is proceeding to decide the entire case itself on its own merits. The contention of the counsel for the petitioners is that once when the entire property after its acquisition stands vested with the Respondent No. 3 ie., Chhattisgarh State Power Production Company Ltd., the proceedings for evicting any unauthorized occupant would had been invoking the provisions of the Public Premises Act and not the Chhattisgarh Land Revenue Code and this preliminary objection that the petitioners have raised ought to have been decided first by the Tahsildar before proceeding further.
3. The State counsel on the other hand opposing the petition submits that the proceedings which has been initiated by the Tahsildar is not one which was issued u/s 248 but is one which has been initiated u/s 250 of the Land Revenue Code. At the same time, the State counsel

also submits that there is no specific objection raised by the petitioners in the preliminary objection except for bald objection to the extent that the matter cannot be heard by the Tahsildar.

4. That in any case since the petitioners have already raised the preliminary objections before the Tahsildar, this Court is of the opinion that it would be more appropriate if the Tahsildar would first decide the preliminary objection and thereafter, if required proceed further to decide the matter on merits. The reason for directing the Tahsildar to decide the preliminary objection first is that, the petitioners intend to challenge the initiation firstly of the very proceedings of Land Revenue Code itself and secondly, the proceedings in fact ought to have been one under the Public Premises Act and not the Land Revenue Code.
5. Given the said facts, let the respondent no. 2 first decide the preliminary objection raised by the petitioners. Since the main object of the petitioner is in-respect-of the competence, jurisdiction and authority of the Respondent No. 2 in the initiation of the proceedings and that being a legal question it can still be raised. Let the petitioners place a fresh detailed preliminary objection before the Respondent No. 2 in-respect-of their contention and the Tahsildar in turn may decide the same first and only thereafter further proceed to decide the case on merits, if required. The petitioners are directed to file supplementary preliminary objection before the Respondent No. 2 within a period of ten days from today. The respondent no. 2 shall entertain the preliminary objection and decide the same first and

thereafter may proceed further to decide the case on merits that to, if required.

6. With the aforesaid observation, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Rahul