

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 2256 of 2020

1. Hetram Suryavanshi, S/o Shri Guharam Suryavanshi, Aged About 55 Years R/o Village - Pandh, Post - Saida, Police Station Sakri, Tahsil - Takhatpur, Bilaspur, District - Bilaspur Chhattisgarh.
2. Bhupendra Kumar Kaushik, S/o Shri Utra Kumar Kaushik, Aged About 45 Years R/o Village - Pandh, Post - Saida, Police Station Sakri, Tahsil - Takhatpur, Bilaspur, District Bilaspur Chhattisgarh.
3. Yogesh Kaushik, S/o Shri Panchram Kaushik, Aged About 38 Years R/o Village - Pandh, Post - Saida, Police Station Sakri, Tahsil - Takhatpur, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
4. Rajesh Tiwari, S/o Shri Chhedilal Tiwari, Aged About 48 Years R/o Ward No. 01, Main Road Bajrang Nagar, Police Station Sahri, Tahsil - Takhatpur, Bilaspur, District - Bilaspur Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Co-Operative Society, Indravati Bhawan, Nawa Raipur, Atal Nagar, Raipur District Raipur Chhattisgarh.
2. Registrar, Co-Operative Society Indravati Bhawan, Nawa Raipur, Atal Nagar, Raipur District Raipur Chhattisgarh.
3. Deputy Registrar, Co-Operative Society, Old Composite Building, Bilaspur, District - Bilaspur Chhattisgarh.
4. Seva Sahkari Samiti Maryadit Sakari (Registration No. 45) Through The Secretary, Village Bahtarai, Thasil Sakri, District Bilaspur Chhattisgarh.
5. Gram Panchayat Bahtarai - Through The Secretary, Janpad Panchayat - Takhatpur, Bilaspur, District - Bilaspur Chhattisgarh.

---Respondents

For Petitioners	:	Shri Prateek Sharma, Advocate.
For State	:	Shri Mateen Siddique, Deputy Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06.10.2020

1. The challenge in the present writ petition is to the order Annexure P/1 and P/2 dated 08.06.2020 and 22.10.2019 respectively.
2. The facts of the case is that, the petitioners are members of the respondent No.4 co-operative society. They had constructed an office-cum-godown at Village Pandh, however, in the course of construction and widening of National Highway No.130, a portion of the said property of the Society and construction made by the respondent No.4-society was

acquired. That the building was demolished and removed and for which the respondent No.4-society has also been paid compensation to the tune of approximately Rs.28 Lakhs.

3. Subsequently, now the development that has taken place is that the respondent No.5, the Gram Panchayat of Village Bahtarai has allotted a portion of land on 22.10.2019 (Annexure P/2) and thereafter the respondent No.3 is said to have passed Annexure P/1 dated 08.06.2020 sanctioning an amount of Rs.9 Lakhs for the construction of godown and office of the respondent No.4-society. In addition, the respondent No.3 has also sanctioned an amount of approximately Rs. 8 Lakhs for the leveling of the said plot which has been allotted by the respondent No.5, Gram Panchayat, Bahtarai.
4. The contention of the petitioners is that the Gram Panchayat first of all does not have power to allot land. It could only at best grant an NOC for the allocation of land. The land has to be duly allotted by the State authorities. Secondly it was contended that the amount which has been awarded to the respondent No.4-society has to be used by the society in the best possible manner taking the larger interest of the Society. It cannot be utilized and misused at the behest of the respondents No.3&5.
5. Moreover, according to the counsel for the petitioners when the major portion of the land, after acquiring of a portion over which the building was earlier existing, still available and where the land is already levelled and a plain land which does not need any levelling. Thus, the substantial amount which would be incurred in filling up of the land which has been now allotted by the Gram Panchayat Bahtarai can be saved. All these facts ought to have been taken into consideration by the respondents No.3&5 before passing Annexure P/1 & P/2.

6. Considering the nature of dispute that the petitioner has, this court is of the opinion that the grievance raised by the petitioners is not one which can be redressed under writ jurisdiction. However, of course since prima facie from the contention of the petitioners it appears that the concern of the petitioners were more on the unnecessary using of the funds lying with the respondent No.4-society for developing a land when developed property in the alternative is already available with the petitioner.
7. This court is of the opinion that ends of justice would meet if the petitioners are permitted to prefer an appeal before the respondent No.2 against the impugned orders Annexure P/1 & P/2 and the respondent No.2 in turn shall take into consideration the entire factual matrix of the case and pass an appropriate order in accordance with law. While doing so, the respondent No.2 shall also consider whether the Deputy Registrar, the respondent No.3 could have passed the impugned order Annexure P/1 or not.
8. Let the petitioners prefer an appeal within a period of 10 days from the date of receipt of copy of this order, and the respondent authorities meanwhile including the respondent No.5-Gram Panchayat, Bahtarai, are directed not to further carry out any construction or development work on the land allotted by respondent No.5 vide Annexure P/2 till the appeal is filed and taken up for hearing by the respondent No.2.
9. The writ petition accordingly stands disposed of with the aforesaid observations.

Sd/-
(P. Sam Koshy)
Judge