

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2333 of 2020**

Sahas Das S/o Shri Daya Das Panika Aged About 72 Years R/o Village Bilari, Tahsil Pamgarh, District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through Secretary , Government Of Chhattisgarh, Department Of Revenue , Mantralaya , Capital Complex , Naya Raipur , Tehsil And District Raipur Chhattisgarh. Pin 492101., District : Raipur, Chhattisgarh
2. Board Of Revenue Through Secretary , Board Of Revenue , Bilaspur , Tehsil Bilaspur , Civil And Revenue District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
3. Additional Commissioner Bilaspur Division , Bilaspur , Tehsil Bilaspur , District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
4. Collector Janjgir Champa , Civil And Revenue District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
5. Sub Divisional Officer (Revenue) Pamgarh, Tehsil Pamgarh , Civil And Revenue District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
6. Gram Panchayat Bilari Through Its Secretary, Tahsil Pamgarh District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
7. Pitar Bai Wd/o Makhan Das Aged About 48 Years R/o Village Odekera, Tehsil Jaijaipur, District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
8. Asha Das S/o Makhan Das Aged About 25 Years R/o Village Odekera, Tehsil Jaijaipur, District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh
9. Dhan Das S/o Makhan Das Aged About 20 Years R/o Odekera, Tehsil Jaijaipur, District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

10. Guddi Kumari D/o Dhajoram Aged About 18 Years R/o Village Odekera, Tehsil Jaijaipur , District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Anish Tiwari, Advocate
For State	:	Mr. Raghvendra Verma, GA

Hon'ble Shri Justice P. Sam Koshy
Order on Board

09/10/2020

1. The present writ petition has been filed assailing the order of the Board of Revenue, Bilaspur dated 02.07.2020 Annexure P-1.
2. The dispute in the present writ petition primarily seems to be the property which was in the name of the Khikhbai that situates at Khasra No. 384 measuring 0.09 Acres at Village Bilari District Pamgarh, District Janjgir Champa. The said Khikhbai was the first wife of the Makhan Das and respondent No.7 to 10 are the second wife and children of the Late Makhan Das. The dispute arose when the Khikh Bai died in 2010. The Gram Panchayat Bilari passed a resolution stating that after the death of the Khikhbai the property would fall in the name of the respondent No.7 to 10 who are the second wife and children of the husband of Khikhbai. The petitioner claims his right over the said property on the basis of an alleged registered "will" that was executed by Khikhbai. After the resolution of the Gram Panchayat and name of respondents No.7 to 10 was recorded in the revenue records, the petitioner approached concerned authority challenging the decision of the Gram Panchayat

and also so far as entries made in the revenue records in favour of respondent No.7 to 10, the same was rejected and proceedings went up till the Board of Revenue which also has now passed the impugned order which is under challenge in this case.

3. At the outset, this Court is of the opinion that since the petitioner is claiming his right over the disputed property on the basis of registered will that he has in his favour, the only remedy that petitioner has in his favour is that of filing of Civil Suit, by which he should have got the right created in his favour and thereafter could have approached the appropriate authorities. Nothing prevented the petitioner even to challenge the resolution of the Gram Panchayat also before Civil Court and seeking appropriate injunction from the same being executed, particularly, when the resolution of the Gram Panchayat was creating a right on a property over which the petitioner also had a claim as alleged.
4. In view of the same, this Court is of the opinion that this disputed question of facts and where appreciation of evidence both oral and documentary would be required to determine the claim of the petitioner, the same cannot be decided in exercise of Writ Jurisdiction by this Court.
5. Reserving the right of the petitioner to avail appropriate remedies, if available to the petitioner, the present writ petition at this juncture stands disposed of.

Sd/-
(P. Sam Koshy)
Judge