

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (C) No. 2542 of 2020**

Rajendra Prasad Sharma S/o Late Shri Gajadhar Prasad Sharma, Aged About 55 Years, Occupation Farmer, R/o Gokulpur Ward, Dhamtari, Tahsil And District Dhamtari, Chhattisgarh

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

1. State Of Chhattisgarh Through The Collector, District Dhamtari, Chhattisgarh
2. Chief Executive Officer, Janpad Panchayat Dhamtari, District Dhamtari, Chhattisgarh
3. The Executive Engineer, Rural Engineering Services, District Dhamtari, Chhattisgarh
4. The Sarpanch, Gram Panchayat Shankardah, District Dhamtari, Chhattisgarh

**---- Respondents**


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| For Petitioner | : | Mr. B. P. Sharma, Advocate    |
| For State      | : | Mr. Mateen Siddiqui, Dy. A.G. |

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****03.11.2020**

1. The challenge in the present writ petition is to the action on the part of the respondent no.4 in constructing Gothan (cattle shed) on the property which is in possession of the petitioner.
2. During the course of hearing it has been revealed that the property in dispute situates in Khasra No.446/2 measuring

0.25 hectare at village Shankardaha, Tahsil Dhamtari, District Dhamtari. It is further revealed that there was a civil suit filed by the petitioner seeking declaration of title over the said property which got rejected and which has also been affirmed in a First Appeal and thereafter, the petitioner has filed a second appeal i.e. Second Appeal No. 467 of 2018. Pending the second appeal before this Court, the present writ petition has been filed questioning the action on the part of the respondent no.4 particularly in deciding to construct a Gothan (cattle shed) over the said property.

3. In view of the fact that in respect of the same property a civil dispute in the nature of a second appeal is already pending consideration before this Court, it would not be proper for this Court, in exercise of its writ jurisdiction, to consider the issue at this juncture so far as the decision on the part of the respondent no.4 to construct a Gothan is concerned. The proper course for the petitioner would be that of moving an appropriate interlocutory application in the concerned second appeal seeking for any relief of restraint that he intends to seek against the respondent no.4. This Court is of the opinion that any observation made by this Court or any order passed by this Court may have adverse bearing to the litigation that is pending before this Court under Section 100 of the CPC in the nature of a second appeal.
4. Thus, reserving the right of the petitioner to avail an

appropriate benefit in the second appeal, the present writ petition stands disposed of.

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

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