

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2705 of 2020**

- Smt. Surubali Pradhan W/o Shri Prahlad Pradhan, D/o Shri Surju Pradhan Aged About 50 Years R/o Village- Rajpur, Post Lukapara, P.S. Sariya, Tahsil Baramkela, District Raigarh, Chhattisgarh

---- Petitioner**Versus**

1. The State Of Chhattisgarh Through The Secretary, Department Of Revenue And Disaster, Mahanadi Bhavan, Mantralaya, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh
2. The State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhavan, Mantralaya, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh
3. Collector, Raigarh District Raigarh, Chhattisgarh
4. Zila Panchayat, Raigarh Through Its Chief Executive Officer, Raigarh, District Raigarh, Chhattisgarh
5. Janpad Panchayat Baramkela Through Its Chief Executive Officer, District Raigarh, Chhattisgarh
6. The Sarpanch Gram Panchayat Bhulumuda, Block Baramkela, District Raigarh, Chhattisgarh
7. Gram Panchayat Bhulumuda Through Its Secretary, Block Baramkela, District Raigarh, Chhattisgarh

---- Respondents

For Petitioner : Shri Roop Naik, Advocate

For Respondents/State : Ms. Richa Shukla, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri**Order****20/11/2020**

1. Heard.

2. Learned counsel for the petitioner would submit that a cremation ground is being created on a land bearing Khasra No.176/1 and according to the Khasra Panchsala (Annexure P-1) it is shown as a forest land. He would further submit that the land wherein the cremation ground is created is adjacent to the land of the petitioner. He referred to the khasra map and would submit that lot of land is lying vacant which can be used for cremation ground and further the nature of land cannot be changed as has been held by the Division Bench of this Court in the case of ***Dharam Singh Gond Versus State of Chhattisgarh & anr. (WA No.112 of 2018)*** , therefore, the creation of the cremation ground may be stayed.
3. Perusal of the documents attached with this petition would show that there is nothing on record to substantiate the fact that the cremation ground is being constructed on the land bearing Khasra No.176/1. The map which has been issued would show that a long stake of land is recorded as Khasra No.176/1 and number of lands are attached to it and it is not clear that which is the land of the petitioner. Even if the objection of the petitioner is entertained that the construction of cremation ground would be near to her land it would be equally applied to all other persons whose lands are adjacent to the land bearing Khasra No.176/1 which is a long stake of land. In order to identify the land, the demarcation report would be necessary and the submission of the petitioner cannot be accepted as a gospel truth as necessarily in order to ascertain the facts, evidence are required to be procured. It appears that the petitioner without resorting the civil remedy, which is more efficacious to her, has directly approached this Court under Article 226 of the Constitution of India. This Court in exercise of power under Article 226 of the Constitution of India cannot collect the evidence on behalf of the petitioner. The documents and the evidence show

that it is a disputed question of fact about the identity of the land for which necessarily detailed evidence would be required, therefore, I am not inclined to exercise the power under Article 226 of the Constitution of India.

4. Accordingly, the petition is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu