

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC NO. 2734 OF 2020**

Yashwant Kumar, S/o Shri Shant Kumar Jaiswal, aged about 40 years, R/o Village Sarwani, Tahsil & P.S. Kharsia, District Raigarh, Civil and Revenue District Raigarh (CG)

... Petitioner(s)

versus

1. State of Chhattisgarh, through Collector, Raigarh, District Raigarh (CG)
2. The Sub Divisional Officer (Revenue), Kharsia, District Raigarh (CG)
3. The Tahsildar, Kharsia, District Raigarh (CG)

... Respondent(s)

For Petitioner	:	Mr. Manoj Kumar Sinha, Advocate.
For Respondents/State	:	Mr. Sudeep Verma, Dy. A.G.

Hon'ble Mr. Justice P. Sam Koshy

Order on Board

06.11.2020

1. Challenge in the present writ petition is to the action on the part of the respondents in not considering and deciding the application of the petitioner seeking registration and permission to sell paddy crops.

2. The petitioner, who is an agriculturist, is in possession of properties that situate at village Lodhiya, P.H.No. 12, Tehsil Kharsia, District Raigarh bearing khasra No. 57, 118/1, 150/3, 170/3, 170/10 and 210 total khasra No. 6, rakba/area 0.121, 0.113, 0.024, 4.297, 0.567 and 0.401 hectares respectively total rakba 5.523 hectare. According to the petitioner, he had approached the Tehsildar for registering his name enabling him to sell paddy, but the same has not yet been decided by the Tehsildar and is still pending consideration.

3. During the course of hearing the counsel for the petitioner has shown certain documents, which would reveal that the Civil Judge Class-2, Kharsia, District Raigarh in Civil Suit No.4-A/2010 vide order

dated 24.11.2010 has passed a specific injunction restraining the defendants therein from interfering with the peaceful possession of the petitioner over the said piece of land. The said order of the Civil Judge Class-2 was subjected to challenge in a Miscellaneous Appeal under Order 43 Rule 1 of the Code of Civil Procedure by way of Miscellaneous Civil Appeal No. 11/2012 before the 1st Additional District Judge, Raigarh and the learned Additional District Judge had vide its order dated 11.05.2012 confirmed the order of injunction passed by the Civil Judge Class-2 on 24.11.2010 and has rejected the appeal filed by the defendants. Pursuant to that the petitioner is enjoying the peaceful possession of the said properties and is cultivating the said land and now the petitioner intends to sell the paddy and therefore the requirement for registration of his name arose.

4. The petitioner rely upon the order passed by this Court on 29.11.2019, passed in the case of **“Kanhaiya Lal Patel v. State of Chhattisgarh & Ors.” WPC No. 4334/2019**, whereby this Court under similar circumstances had in paragraphs No. 3 & 4 held as under:

“3. What is clearly reflected from the order of this Court in the Second Appeal dated 14.07.2017 and the order of the Tahsildar dated 26.10.2019 that admittedly as on date the petitioner is in possession of the land. It is not in dispute that petitioner is now the person who is cultivating over the said land. It is also apparently clear that the petitioner has some interim protection from the High Court in Second Appeal No. 441 of 2017. As a consequence of the interim protection by the High Court, the petitioner would continue cultivating over the said land till the second appeal is either finally decided or the High Court vacates the interim order earlier granted on 14.07.2017. As long as the order dated 14.07.2017 stands, the petitioner has a right to continue cultivation over the said disputed land and, therefore, he has a right to sell his paddy to the concerned society. The Tahsildar has wrongly held that the petitioner does not own the said land and, therefore, has refused to register his name. What is to be deemed is that there is an interim protection, so far as the possession of

the land by the petitioner is concerned, therefore, till the order dated 14.07.2017 is not modified or the Second Appeal No. 441 of 2017 is not finally decided, let the Respondent No. 6 consider the petitioner's case for grant of temporary registration which would enable him to sell his paddy. The situation cannot be created where the paddy cultivated by the petitioner cannot be sold which otherwise is his only source of income.

4. Given the said facts, let the Respondent No. 6 immediately reconsider the case of the petitioner for grant of temporary registration, subject to the outcome of the Second Appeal No. 441 of 2017 or vacating of the interim order dated 14.07.2017 whichever is earlier."

5. In the instant case also if we look into the facts of the case, which would reveal that the petitioner has been able to get an injunction in his favour, which has been affirmed by the first Appellate Court also, so far as his possession over the disputed piece of land. By virtue of the injunction order, the petitioner is entitled for cultivating the said lands and on his cultivating the said lands, he also has a right for selling his paddy, as is being sold by the other agriculturists in the area.

6. The State Counsel on the other hand opposing the petition submits that under the scheme it requires registration and for registration it requires that the name of the agriculturists should be reflected in the revenue records, otherwise the petitioner may not have a claim for getting himself registered. It is the further contention of the State Counsel that under the scheme there is no such provision for grant of temporary registration.

7. Having heard the contentions put forth on either side and on perusal of record, what clearly reflects is that the schemes that are framed by the State Government are only applicable for one year. It is not a permanent scheme, which is in force. The registration which is required is for selling and purchasing of paddy for the present *khareeb* season. In case, if the petitioner is not registered, he would

not have a right of selling the paddy as is being sold by the other agriculturists. The scheme itself is in operation on annual basis. Therefore, taking into consideration the order of injunction in his favour by the Civil Court and which has been affirmed by the first Appellate Court in a Miscellaneous Appeal, the petitioner as of now undisputedly is in possession of the said pieces of land and is also cultivating the said land and therefore he has also a right of selling his paddy.

8. In view of the same and also taking note of the order passed by this Court in the case of “**Kanhaiya Lal Patel**” (supra), it would be in the interest of the petitioner as well as in the larger interest of the public if respondent No.6 is directed to reconsider the case of the petitioner for grant of temporary registration subject to the outcome of the civil suit pending before the concerned Court. Based on the temporary registration, the petitioner also would be entitled for selling his paddy in accordance with the scheme framed by the State Government. The said temporary registration would be only as long as the injunction order of the Civil Court is in favour of the petitioner.

9. With the aforesaid direction, Writ Petition stands disposed of.

/sharad/

Sd/-
(P. Sam Koshy)
Judge