

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 117 of 2020**

Dharam @ Suklal Banjare S/o Late Bisauha Ram Banjare Aged About 70
Years R/o Village- Sipkonah, Tahsil Patan, District- Durg Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Ministry Of Agriculture, Mantralaya, Mahanadi Bhawan, Naya Raipur, District- Raipur Chhattisgarh
2. The Collector Durg Tahsil And District- Durg Chhattisgarh
3. The Sub-Divisional Officer (Revenue) Tahsil- Patan, District- Durg Chhattisgarh
4. The Tahsildar Tahsil Patan, District- Durg Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Uttam Pandey, Advocate
For State	:	Mr. V.R. Tiwari, Additional AG with Mr. P. Acharya, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****29/01/2020**

1. The grievance of the petitioner in the present writ petition is to the non registration of the petitioner by the respondents for the purpose of selling of their paddy.
2. The case of the petitioner is that he has an agricultural land at part of old Khasra No. 324, 327, 826.827,845 and 897 (New Khasra No. 731) admeasuring 12.56 hectares of land. According to the petitioner he is in occupation of the said piece of land for the last more than 6-7 decades. He further submits that there was some dispute in respect of petitioner's land as according to the State authorities the

said land subsequently got submerged into water and it became a grassland of the Government and against which the Government had tried to evict him from the said piece of land. The petitioner had filed a Civil Suit before 6th Additional District Judge, Durg vide Civil Suit No. 120 A/2016. In the said suit the petitioner had an interim protection granted on 06.02.2017 whereby a temporary injunction was allowed in favour of the petitioner so far as possession of said land is concerned. The Civil Suit finally got rejected vide judgment and decree dated 31.01.2019 against which the First Appeal has been preferred before the High Court i.e. FA No. 184/2019. The High Court also has vide its order dated 02.05.2019 taking into consideration the temporary injunction in favour of the petitioner dated 06.02.2017 has directed the respondents not to interfere with the plaintiff's possession over the said land till further orders. According to the petitioner the said interim order is still in force and by virtue of interim order he is in possession over the said land and also is cultivating the said piece of land and thereby he had approached the respondent No.3 & 4 for registration of his name for the purpose of selling paddy which till date has not been finalized, though respondent No. 3 has directed the respondent No.4 to pass the order at the earliest.

3. The petitioners 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.”

4. In the instant case also if we look into the facts of the case, which would reveal that the petitioners have got an injunction in his favour, by the Civil Court and also by the first Appellate Court also, so far as their possession over the disputed piece of land. By virtue of the injunction order, the petitioners are entitled for cultivating the said lands and on their cultivating the said lands, they also have a right for selling their paddy, as is being sold by the other agriculturist in the area.
5. 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 petitioners may not have a claim for getting themselves registered. It is further contention of the State

counsel that under the scheme there is no such provision for grant of temporary registration.

6. 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 is 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 *kharif season*. In case if the petitioners are not registered, they 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 their favour by the Civil Court and by the first Appellate Court, the petitioners as of now undisputedly are in possession of the said piece of lands and are also cultivating the said land and therefore they have also a right of selling their paddy.
7. 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 petitioners as well as in the larger interest of the public for a direction the respondent No.4 to reconsider the case of the petitioners for grant of temporary registration subject to the outcome of the First Appeal pending before the High Court. That based on the temporary registration, the petitioners would be entitled for selling their 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 High Court is in favour of the petitioners.

8. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit