

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 405 of 2021

Chhote Lal Jangde S/o Hari Prasad Jangde Aged About 48 Years
R/o Village Pamgarh, Thana And Tahsil-Pamgarh, District Janjgir-
Champa, Chhattisgarh **---- Petitioner**

Versus

1. State Of Chhattisgarh : Through The Secretary, Revenue Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. The Sub Divisional Officer (R) Pamgarh, District Janjgir- Champa, Chhattisgarh
3. The Tahsildar, Pamgarh, District Janjgir- Champa, Chhattisgarh
4. Manoj Kumar Khare S/o Krishno Ram Khare Aged About 48 Years
R/o Village Pamgarh, Thana And Tahsil Pamgarh, District Janjgir-
Champa, Chhattisgarh
5. Pari Auto Mobile Through Raju Kathe S/o Syam Kathe, Aged About 66 Years, R/o Village Pamgarh, Thana And Tahsil Pamgarh, District Janjgir- Champa, Chhattisgarh

---Respondents

For petitioner – Shri Bharat Rajput, Advocate.
For State – Shri Amrito Das, Addl. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order

02/02/2021

Heard.

1. Learned counsel for the petitioner would submit that on an application made by few of the interested parties to the SDO, Pamgarh it was forwarded to the Tehsildar on the allegation that the petitioner has encroached upon the government land whereas copy of the panchnama carried out by the Patwari would show that the petitioner has not encroached upon the government land. He would submit that the Tehsildar has acted on the application received from the office of the SDO which could not have been done in exercise of power under Section 248 of the Land Revenue Code. As per sub section 2 of Section 248 of the Land Revenue Code it is only after the resolution of the gram panchayat it is

resolved to remove any encroachment the proceeding under section 248 could have been commenced. Therefore the petitioner cannot even avail the appellate remedy for the reason that the proceeding was initiated at the behest of SDO, Pamgarh who is an appellate authority. He would submit that on the earlier round of litigation before this Court, the Court has directed to decide the preliminary objection about the maintainability of the petition under section 248 of the Land Revenue Code and thereby the impugned order 24/11/2020 serious prejudice has caused, since Tehsildar has held that any villager can maintain the application u/s 248 of C.G. Land Revenue Code which would be against the provisions of section 248(2) of the Land Revenue Code.

2. Perused the order dated 24/11/2020. In its order the Tehsildar has observed that any villager can maintain the proceeding under Section 248 of the Land Revenue Code. The preliminary objection which was raised by the petitioner cognizance can be taken u/s 248 of Land Revenue Code only when the gram panchayat have passed the resolution under section 248(2) have been turned down. The said finding whether it is correct or not it is to be tested by the appellate or revisional forum which is provided under Section 44 or u/s 50 of the Land Revenue Code. Prima facie it appears the petitioner has a remedy to file a revision under section 50 of the Land Revenue Code. Since under the Land Revenue Code the Collector would be the higher authority to hear the revision under Section 50, the petitioner may prefer the necessary revision, if so advised, before the appropriate court of Collector within a period of 30 days from today.

3. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE

