

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 563 of 2021**

1. Kareshani D/o Shri Hulash Aged About 65 Years R/o Village Semali, Gram Panchayat- Obari, Tahsil And District Balrampur, Chhattisgarh
2. Jai Prakash Vishwkarma S/o Shri Jageshwar Vishwakarma Aged About 60 Years R/o Village Semali, Gram Panchayat- Obari, Tahsil And District Balrampur, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur, Chhattisgarh
2. The Collector Balrampur, District - Balrampur, Chhattisgarh
3. The Sub Divisional Officer, Balrampur, District - Balrampur, Chhattisgarh
4. The Tahsildar, Balrampur Tahsil And District Balrampur, Chhattisgarh
5. The Superintendent Of Police Balrampur, District Balrampur, Chhattisgarh
6. The Station House Officer, Police Station Balrampur, District Balrampur, Chhattisgarh

---- Respondents

For Petitioners	:	Shri R.S. Patel, Advocate
For Respondent	:	Ms. Richa Shukla, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****29.01.2021**

Heard.

1. Learned counsel for the petitioners submit that in favour of the petitioner No. 1 namely Kareshani land bearing Kh. No. 4/35, 4/35, 4/3, three parts of land were given under grant which were admeasuring 0.710, 0.430 and 0.700 hect. at village Semali P.C. No. 38 in the year 1982-83 under the revenue case. Likewise, in favour of Petitioner No. 2 namely Jai Prakash Vishwkarma the land bearing Kh. No. 4/35 and 4/3 admeasuring 0.400 and

0.408 Hect. respectively at village Semali was settled and the *bhumiswami* right were given in the year 1982- 83 was given to both the petitioners. It is contended that Annexure P-1, shows that since the petitioners were landless persons they were cultivating the said land though their predecessor were in possession of the said land. He further submits that the name of the petitioners are also recorded in the revenue land records wherein they are shown to be *bhumiswami* of the respective lands. It is further contended that all of a sudden, the respondent authorities have started measuring the land without the permission of the petitioners and the query having been made it is stated that ITI is to be constructed over the said land as the allotment of the petitioners stands cancelled in the year 2015 in a revenue case. He further submits that when the copy of the revenue case was applied for on reference of which respondent authority tried to encroach upon the land, they were not provided with the certified copy which would be evident from the application for certified copy filed which contains an endorsement that the said file has not been deposited in the record room. In view of this, learned counsel would submit that the petitioners cannot be deprived of their *bhumiswami* right by illegal and arbitrary proceeding adopted by the respondents.

2. Learned State counsel opposes the arguments.
3. Perused the documents.
4. *Prima facie*, the documents attached with this petition show that under certain grant *bhumiswami* right was given in favour of the petitioners at village Semali at certain areas and according to the certificate issued by the Sarpanch Gram Panchayat, the petitioners are in possession of the said land cultivating the same. If the grant have been made in favour of the petitioners, then in such case the petitioners cannot be dispossessed without due course of law or forceful dispossession cannot be made.

Therefore, before any such dispossession is carried out the respondent authority are directed that they shall measure the land of the petitioners according to the grant so made in the year 1982-83, then leaving apart the land of the petitioners they may proceed accordingly. Till such demarcation is carried out the petitioners shall be given opportunity of hearing.

5. With the above direction/observation, this writ petition is disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Jyoti