

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 801 of 2021**

1. Ghanshyam Rajput S/o Shri Ram Niwas Rajput Aged About 40 Years R/o Village Janghora, P.S. And Tehsil Pithora, District Mahasamud Chhattisgarh
2. Amit Agrawal S/o Shri Bajrang Agrawal Aged About 38 Years R/o Village Pithora, P.S. And Tehsil Pithora, District Mahasamund Chhattisgarh,

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Collector Mahasamud, District Mahasamud Chhattisgarh
2. Sub -Divisional Officer (Revenue)/sub -Divisional Magistrate Pithora, District Mahasamund Chhattisgarh
3. Tehsildar Pithora District Mahasamund Chhattisgarh
4. Superintendent Of Police Mahasamund District Mahasamund Chhattisgarh
5. Station House Officer Pithora Tehsil Pithora District Mahasamund Chhattisgarh
6. Lokesh Sinha S/o Shri Bhushan Sinha Aged About 32 Years R/o Ward No.9, Pithora, P.S. And Tehsil Pithora District Mahasamud Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Surfaraj Khan, Advocate
For State	:	Mr. Amrito Das, Addl. A.G.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****16.02.2021**

1. Heard
2. The present writ petition has been filed by the petitioners against the proceeding drawn by the Tehsildar Pithora Distt. Mahasamund (C.G.) vide

Annexure P/1 dated 30.07.2020 wherein the land situated at Village Nayapara Khurd bearing Khasra No. 86 admeasuring 3.67 Hectare was alleged to be leased out to Ramdulari who sold it and the allegations further were related to land bearing Khasra No. 87, which is a government land and it is alleged that it was sold by some of the persons by mutation of private names. It is stated that the petitioners had also purchased some of those lands.

3. Learned counsel for the petitioners submits that the petitioners are the purchaser of the land from the lessee for a valuable consideration and thereafter part of the land was mutated in their name. It is contended that the lease are being granted under Section 181 of the Chhattisgarh Land Revenue Code 1959 (henceforth 'the Code 1959') and the Collector alone can take cognizance of the matter and not the Tehsildar. It is further submitted that the Tehsildar has taken cognizance of this case and has usurped the power of the Magistrate thereby the proceeding per se is illegal.
4. Per contra, learned State counsel submits that it is only an enquiry which was initiated in exercise of power under Section 32 of the Code 1959, therefore the entire averments of the petitioners and the apprehension would be premature.
5. Perused the order sheet of Tehsildar. Perusal of the order sheet of the Tehsildar would show that a complaint was made by the respondent No. 6 namely Lokesh Sinha that certain government land have been sold and purchased by inter-meddling with the connivance of the Patwari and the

Revenue Inspector and mutation of false names were made. The complaint purports that the mutation which have been made are illegal and prayed that the enquiry be conducted. Pursuant thereto the Tehsildar on 30.07.2020 stated enquiry wherein the petitioners were summoned. The order sheet would show that the petitioners have entered their appearance, thereafter the proceedings are being continued.

6. *Prima facie* looking at the proceeding at this stage, no presumption can be drawn as the proceedings are contemplated with a premeditated fact finding. Section 32 of the Code 1959 bestows the Revenue Officer to pass certain orders which are required for necessary to arrive for ends of justice or to prevent abuse of process of law. Therefore, because of the allegation the enquiry has been commenced, no presumption at this stage can be arrived at. It would be a premature finding. The petitioners at this stage have knocked the door of this Court which in the considered opinion of this Court cannot be pressed into motion by invoking Article 226 of the Constitution of India as it would amount to nip in the bud on enquiry of fact finding.
7. The petitioner would be at liberty to avail appropriate remedy available to them under the law as and when any orders are passed and if they feel aggrieved.
8. Accordingly, the writ petition stands disposed off.

sd/-
(Goutam Bhaduri)
Judge