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HIGH COURT OF CHHATTISGARH, BILASPURWPIL No. 17 of 2021

- Jhadu Ram Sinha S/o Late Mangiram Sinha Aged About 84 Years
R/o Village Churiyakala, Ward No. 6, Nagar Panchayat
Churiyakala, Tahsil Churiya District Rajnandgaon Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of
Revenue, Mantralaya, Mahanadi Bhawan, Atal Nagar Naya
Raipur Police Station Rakhi, Atal Nagar, Naya Raipur, District
Raipur (CG)
2. The Collector Rajnandgaon Chhattisgarh
3. Sub Divisional Officer (Revenue) Chhuriya District Rajnandgaon
Chhattisgarh
4. Tehsildar, Chhuriya, District Rajnandgaon Chhattisgarh
5. Nagar Panchayat Through The Chief Executive Officer, Chhuriya,
District Rajnandgaon Chhattisgarh
6. Patwari Halka No. 20, Tehsil Chhuriya, District Rajnandgaon
Chhattisgarh
7. Naved Memon S/o Late Siddiqui Memon R/o Village Churiyakala,
Ward No. 06, Nagar Panchayat Churiya, Tahsil Churiya District
Rajnandgaon Chhattisgarh

---- Respondent

For Petitioner	Mr. Shaleen Singh Baghel, Advocate
For Respondent /State	Mr. S.C. Verma, Advocate General with Mr. Chandresh Shrivastava, Dy. AG and Mr. Taran Prakash Sinha, Collector, Rajnandgaon (CG)

DB.: Hon'ble Mr. Prashant Kumar Mishra, Ag, C.J.Hon'ble Mr. N.K. Chandravanshi, J.

Order On Board By Prashant Kumar Mishra, Ag. C.J.**4/8/2021**

1. Heard.
2. On the one hand, the petitioner alleges that respondent No.7 has encroached the Government land and has constructed shops and on the other hand, Mr. S.C. Verma, learned Advocate General appearing along with Mr. Chandresh Shrivastava, Dy. AG and Mr. Taran Prakash Sinha, Collector, Rajnandgaon (CG) would submit that respondent No.7 was allowed a lease of 2.5 decimal area on Khasra No.446, Village Chhuriya. In the *Patwari Prativedan*-Annexure P/4, the Halka Patwari has reported that respondent No.7 is in possession of 59.925 square meter area over Khasra No.477 and 143.9825 square meter area over Khasra No.446/1. Thus, as per the report, respondent No.7 was in possession of more than 2.5 decimal area.
3. On 21.6.2021, this Court had directed the respondent authorities to ensure that no illegal construction is raised by respondent No.7 or by any other person on any Government land. Thereafter, when the petitioner complained that the construction is still going on, on 29.7.2021, we directed the Collector, Rajnandgaon to file his own affidavit in the matter to meet out the allegations contained in the writ petition as well as the statement made by learned counsel for the petitioner. The Collector, Rajnandgaon was also directed to appear in person through virtual hearing before this Court to explain.

4. Today, Mr. S.C. Verma, learned Advocate General appearing along with Mr. Chandresh Shrivastava, Dy. AG and Mr. Taran Prakash Sinha, Collector, Rajnandgaon explained the facts particularly explaining that the ancestors of respondent No.7 was allowed lease for 2.5 decimal land over Khasra No.446, however, in addition to that, he had also encroached some area of Khasra No.477 but the said encroachment has since been removed as would be clear from the Inquest-R/3 prepared on 25.1.2021 and the subsequent report of Halka Patwari-Annexure R/6 dated 1.3.2021 as also the order passed by the Tehsildar, Chhuriya on 12.3.2021 and again of Tehsildar dated 26.7.2021-Annexure R/11 along with *Nazri Naksha*-Annexure R/12. In all these documents, it has been found that respondent No.7 is possessed of his own lease hold land on Khasra No.446/1 and not of any other area of Khasra No.477. It is also to be noted that Annexure R/11 records that the petitioner was served with a notice seeking his presence at the time of preparation of inquest, but he chose to remain absent.
5. At this stage, Mr. Shaleen Singh Baghel, learned counsel for the petitioner, submits that on 21.6.2021, this Court had directed the respondent authorities to ensure that no illegal construction is raised by respondent No.7 or by any other person on any Government land yet as per Annexure R/11, respondent No.7 has been found to be raising illegal construction on his land bearing Khasra No.446.
6. On 21.6.2021, we had directed that no construction should be

made on any Government land. The direction was not that the private respondent cannot raise construction over his own land. Moreover, if respondent No.7 is raising construction in violation of the terms of the lease or in violation of any other law that is a different issue altogether. Even that issue appears to have been taken care of in the order in order sheet passed by the Tehsildar, Chhuriya on 26.7.2021 and we expect that the said proceeding shall continue and taken to its logical legal conclusion by the concerned Municipality.

7. In view of the above, finding that respondent No.7 has raised construction over his lease hold land, the WP(PIL) seeking removal of encroachment from the Government land does not survive, subject, however, to the observations made in the above paragraph six.
8. The PIL stands disposed of.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(N.K. Chandravanshi)
Judge