

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1339 of 2021

Ajay Kumar Agrawal S/o Ramkishan Agrawal Aged About 48 Years
R/o Park Avenue Colony Raigarh Hal Mukam Jagatpur, Tahsil And
District Raigarh Chhattisgarh
--- Petitioner

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue and Disaster Management, Mantralaya, Mahanadi Bhawan Naya Raipur District Raipur Chhattisgarh.,
2. Nazul Officer Nazul Office, Raigarh District Raigarh Chhattisgarh
3. Collector Collectorate Building Raigarh District Raigarh Chhattisgarh
---- Respondents

For the Petitioner : Mr. Amit Sharma, Advocate

For the State : Mrs. Richa Shukla, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

04.03.2021

1. Heard.
2. The prayer made in this writ petition is to set aside the order dated 19.02.2021 (Annexure P-1). Learned counsel for the petitioner would submit that the order passed by the Nazul Officer, Raigarh to the effect that the petitioner is not in possession of the part of land bearing Kh.No.84/1 admeasuring 4750 sq.ft., is completely wrong, He would submit that according to the Revenue Book Circular and the Policy of the State, the persons who are in possession of the government land, on payment of amount, the lands were directed to be settled in their favour as per the guidelines dated 11th September, 2019. He would further submit that the Nazul Officer has passed the order that he is not vested with such power to settle the matter as it is the Collector who would eventually decide the allotment and not the

Nazul Officer. Therefore, the order dated 19.02.2021 and the consequent auction proceeding which has been published may be stayed.

3. Learned counsel would further submit that according to the policy of the State, the persons who are in possession of the subject government land prior to 20th August, 2017 were allowed to get the ownership of the land under the Scheme and the *Panchnama* filed as Annexure P-4 would show that the petitioner is in possession of the Part of Kh.No.84/1 admeasuring 4750 sqft. therefore, the order of the Nazul Officer is completely without any basis.
4. Per contra, learned State Counsel vehemently opposes the arguments of the petitioner and submits that the document (Annexure P-4) on which the right is claimed about the possession does not bear any seal as to by whom it is prepared. It is further submitted that the demarcation can only be carried out under the valid order of the competent authority. Nothing has been placed on record to show that pursuant to certain orders, the Panchnama was carried out, therefore, Annexure P-4 cannot be relied upon. She further submits that for The State has laid down a policy dated 11th Sept. 2019 Annexure P-2. It is also submitted that in absence of any authenticity of Annexure P-4, the petitioner has tried to make out a case before this court on the basis of forged document.
5. Having heard counsel for the parties and on perusal of the documents it would show that the state has laid down a policy 11th September, 2019 (Annexure P-2) that the persons who are encroachers of the government land prior to 20th August 2017, the same would be accommodated and the matter will be settled in favour of claimants on payment of prescribed fee. The petitioner claims that he is in possession of part of Plot No.84/1 and out of 9500 sq. ft., 4750 sqft., is in his possession which is situated at Jagatpur. The petitioner has heavily relied on Annexure P-4 which is a Panchnama to show his

possession. It would reflect from Panchnama that the petitioner is in possession of 4750 sqft., of land prior to 2017 and the documents of payment of tax receipts were also submitted. According to the State Policy, the entitlement of settlement would accrue to the persons who had encroached and is in possession of the land prior to 20th August, 2017. The Panchanama Annexure P-4 is relied to show the possession.

6. The submission of the State cannot be ignored that the document (Annexure P-4) neither bears the signature or seal nor it is a certified copy passed under any revenue case. The petitioner claims that he was in possession prior to 2017 whereas Annexure P-1 which is under challenge reflects that on the report/memo of revenue inspector of Nazul, the petitioner was not found in possession prior to 2017. Therefore, the two documents Annexure P-1 and P-4 are contradictory in nature. Annexure P-4 is relied on by the petitioner. If the petitioner is in possession prior to 2017 then naturally the order Annexure P-1 dated 19.02.2021 would be wrong on the factual aspects. However, if the Annexure P-4 is a private document, then if such document is relied on by the petitioner which is part of the petition, it is supported by the affivit, then in such a case, it would have a serious bearing as it would amount to fabrication of document to obtain the order.
7. Under the circumstances, the Superintendent of Police, Raigarh, is directed to investigate the document Annexure P-4 through his subordinate higher officials as to whether such document exists in the revenue records under any revenue case. He will also investigate the fact under which revenue case the order was passed and the Panchnama was prepared The investigation would also include that by whom it was prepared. If it is found that the said document was prepared under the order of Revenue Officer, then in such a case, the claim of the petitioner for entitlement of settlement of Kh.No.84/1

admeasuring 4750 may be considered by the State afresh as per the Policy. If it is found that the document is fake one or private document not prepared under any order of Revenue Case, the consequences of criminal prosecution would follow. The said investigation may be carried out within a period of 30 days from the date of receipt of this order.

8. In the meanwhile, till such investigation is carried out about the authenticity of document (Annexure P-4), the part of land bearing of Kh.No.84/1 admeasuring 4750 sq.ft., at Jagatpur shall not be subject to auction. The State Counsel shall forward this order along-with entire copy of the petition to the Superintendent of Police so that necessary compliance is done.
9. Cc as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**