

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPIL No. 33 of 2021**

- Ravi Kumar Yadav S/o Ramkhilawan Yadav Aged About 32 Years R/o Lalpur , Police Station Balodabazar, Tehsil Bhatapara , District Balodabazar Bhatapara.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Development Of Urban Administration And Development , Mantralay, Mahanadi Bhawan, Naya Raipur
2. State Of Chhattisgarh Through The Secretary Department Of Revenue And Disaster Management Mantralay Mahanadi Bhawan, Naya Raipur
3. The Collector Balodabazar District Bhatapara
4. Sub Divisional Officer (Revenue) Tehsil Paniyan, District Bhatapara.
5. The Tehsildar Tehsil Paniyan, District Bhatapara
6. Municipal Corporation Balodabazar, Through The Commissioner , Municipal Corporation Balodabazar District Bhatapara Chhattisgarh.
7. Dhanadhar S/o Shri Mohan Yadu Aged About 35 Years R/o Lalpur , Tehsil Bhatapara , District Balodabazar Chhattisgarh.
8. Karan S/o Shri Gangadalyal Yadu Aged About 62 Years R/o Lalpur , Tehsil Bhatapara , District Balodabazar Chhattisgarh.
9. Kartik Yadav (Minor) S/o Shri Shrawan Kumar Yadav Aged About 5 Years Guardian Shri Vishnu Prasad Yadav (Grand Father Of Kartik Yadav) , S/o Late Rati Ram Yadav , Aged About 66 Years, R/o Lalpur , Tehsil Bhatapara , District Balodabazar Chhattisgarh.

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For Petitioner	:	Shri Aditya Tiwari, Advocate
For State	:	Shri Gagan Tiwari, Dy.G.A.

D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

14/09/2021

After hearing learned counsel for the parties and perusing certain records we find that case is regarding dispute of title over the pond which is subject matter of dispute in the writ petition.

2. State's records contain not only revenue records in which private person's name is on record but also there are certain records in which the land is being used for *nistari* purposes by the villagers. The contention of learned counsel for the petitioner that land is a *nistari* land but wrongly recorded in the name of private persons. Therefore, they should be removed and pond be set free.

3. In our opinion, it can be decided only after going through the entire records, history with regard to creation and abolition, interest and title of the pond which pertains to abolition of proprietary rights of ex-malguzar. The case involves disputed facts and factual enquiry which would require not only minute scrutiny of revenue records but may also require oral evidence. The Land Revenue Code provides mechanism and remedy where complaint is made to revenue authority that the pond was being used as *nistari* purposes and used exclusively by the villagers, but wrongly recorded in the ownership of private persons.

4. Therefore, we are of the opinion that this writ petition should be disposed off with the direction to the Collector, Balodabazar to entrust the matter for due enquiry by a competent authority to deal with complaints regarding encroachment on *nistari* pond of the village. The competent authority shall institute proceedings by issuing due notice not only to the villagers but also to its recorded owner. The enquiry should be made within an outer limit of three months from the date of receipt of copy of this order by the Collector. The security amount of Rs.5,000/- be refunded and appropriate records of refund be attached with the records of the present case.

The petition is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge