

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**W.P.(227) No. 313 of 2020**

- Smt. Aagar Bai W/o Ram Lal Manhar Aged About 52 Years By Caste Satnami, R/o Hasoud, Tahsil Jaijaipur, District Janjgir Champa Chhattisgarh

**---- Petitioner**

**Versus**

- The State Of Chhattisgarh Through Collector, District Janjgir Champa Chhattisgarh

**---- Respondent**

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For Petitioner : Mr. Parag Kotecha, Advocate.

For State/respondent : Mr. Sameer Oraon, Govt. Advocate.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order on Board**

**24/06/2021**

1. This petition under Article 227 Constitution of India has been brought being aggrieved by the order dated 19.02.2020 passed by the Court of Civil Judge, Class-II, Jaijaipur, District- Janjgir- Champa in Civil Suit No.5A/2020, rejecting the plaint.
2. The petitioner has filed a Civil Suit praying for relief of declaration and injunction. On this basis that the petitioner has acquired title on the piece of Government land through prescription after her long possession. The Court of Additional Tehsildar, Hasaud had vide order dated 22.12.2014 ordered for confiscation of the house of the petitioner, which is constructed on the land in question. The petitioner challenged the same in the Court of Sub-divisional Officer, Janjgir-Champa in appeal. Her appeal was allowed and the order of Additional Tehsildar was set aside. It is pleaded in the plaint that the petitioner has received

information from some reliable sources that the Additional Tehsildar, Hasaud is again about to proceed against the petitioner and vacate her from the property in question, therefore, the Suit was filed, which was maintainable.

3. The petitioner has relied on the judgment of Andhra Pradesh High Court in the Case of ***Saibaba Kirana And General Merchant Banswada VG and Mandal Vs. Manjira Chit Fund Company, Banswada VG and Mandal*** reported in (2004) 4 ALT 271 and also on the provisions in Civil Court Rules. It is prayed that the impugned order may be set aside/quashed.
4. The learned Trial Court made a scrutiny of the plaint and held in the impugned order that the petitioner has filed the Civil Suit only on the basis of some unconfirmed apprehension, therefore, there appears to be no cause of action because of which the plaint filed by her was rejected.
5. Order II Rule 2 provides that every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action. In Order VII Rule 11 of C.P.C., it is provided that plaint shall be rejected in case, it does not disclose the cause of action.
6. The cause of action mentioned hereinabove means an entitlement to legally proceed against the other party from whom the relief is sought. Such cause of action must be genuine and real. The Suit has been filed against the State, whereas at present there is an order standing in favour of the petitioner which has been passed by the Additional Collector, Janjgir-Champa in Revision Case No.28/A-68/2012-13 vide order dated 15.07.2013, in which the earlier order of the Additional Tehsildar was set aside. On this basis that the Additional Tehsildar had

not proceeded in accordance with law. Subsequent to which, the Additional Tehsildar had proceeded against the petitioner and passed an order dated 29.04.2017 which has been set aside by S.D.O. Revenue, Sakti, C.G. in appeal, by making reference to order dated 15.07.2013 of Additional Collector.

7. In such circumstances, it does not appear that any cause of action has arisen in favour of the petitioner. The proceeding if any before Additional Tehsildar if still contemplated, then the petitioner shall have the opportunity to appear and present her case. No decision has been taken by the respondent to take away right of the petitioner on which she puts her claim. Therefore, I do not find any error in the impugned order. This petition is dismissed and disposed off. This order shall not bar any proceeding against the petitioner in Revenue Court in future.

8. Accordingly, this petition is disposed off.

**Sd/-**

**(Rajendra Chandra Singh Samant)**

Judge