

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3228 of 2021**

- Smt. Jhul Bai Rathore D/o Puniram Aged About 67 Years R/o Village Portha, Tahsil Sakti, District Janjgir Champa Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary Department Of Revenue Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh
2. National Highway Authority Of India Through Its Director, Project Execution Unit, Abhilasha Parisar, New Bus Stand Bilaspur District Bilaspur Chhattisgarh
3. Sub Divisional Officer (Revenue) Cum Competent Authority National Highway Champa, District Janjgir Champa Chhattisgarh
4. Collector District Janjgir Champa Chhattisgarh
5. Smt. Padum Bai W/o Late Dau Ram Sahu Aged About 72 Years R/o Village Sivni, Tahsil Champa, District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner	:	Shri Jeet Ram Patel, Advocate
For Respondents/State	:	Shri Ashish Tiwari, GA
For Respondent No.2/NHAI	:	Shri Dhiraj Kumar Wankhede, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order****11/08/2021**

1. Heard.
2. Learned counsel for the petitioner would submit that the land bearing Khasra No.1654 was acquired, which was in the name of respondent No.5 Smt. Padum Bai, w/o late Dau Ram Sahu and the petitioner is related to Smt. Padum Bai. He would further submit that the property initially belongs to Puni Ram. It is

further submitted that a part of the land was in possession of the petitioner as a legal heir of Puni Ram, whereas after acquisition of the property for construction of the road, the entire compensation has been paid to Smt. Padum Bai i.e. the respondent No.5, therefore, the petitioner when has filed the application in this regard but remain undecided and this Court may direct the respondents to decide the objection of the petitioner.

3. Perusal of the document Annexure P-3 would show that the land bearing Khasra No.1654 is recorded in the name of Smt. Padum Bai and in the remark column it is shown on a part of land i.e. 0.10 decimal, the petitioner is in possession. How the petitioner is claiming inheritance through Puni Ram is not clear and this Court in exercise of power under Article 226 of the Constitution of India cannot decide inheritance and devolution of property. It is also not clear that since the land is admeasuring 0.351 as per Annexure P-3 and out of it some part is acquired. It cannot be decided by this Court as to which part on which the petitioner is in possession which has been used for construction of road or not? The statute must mandate to decide the objection, in accordance with law and if the authority fails to do so then only the power under Article 226 of the Constitution of India can be invoked.
4. In view of such facts, the petition sans merit is liable to be and is hereby dismissed. The petitioner may avail the appropriate remedy as available to him under the law.

Sd/-

Goutam Bhaduri
Judge