

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 47 of 2019**

1. Agnu Ram S/o Gosai Ram Aged About 60 Years R/o Village Mudiyaadeeh, Police Station Tumgaon, Police Station Pasid, District Mahasamund Chhattisgarh.
2. Kartik Ram S/o Sadhwa Aged About 60 Years R/o Village Mudiyaadeeh, Police Station Tumgaon, Police Station Pasid, District Mahasamund Chhattisgarh.
3. Mukhirm Patel A/o Narayan Patel Aged About 35 Years R/o Village Mudiyaadeeh, Police Station Tumgaon, Police Station Pasid, District Mahasamund Chhattisgarh.
4. Oman Nishad S/o Babulal Nishad Aged About 45 Years R/o Village Mudiyaadeeh, Police Station Tumgaon, Police Station Pasid, District Mahasamund Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat, Mahanadi Bhawan, Naya Raipur Chhattisgarh.
2. The Collector Mahasamund, District Mahasamund Chhattisgarh.
3. Sub Divisional Officer Mahasamund, District Mahasamund Chhattisgarh.
4. The Tahsildar Patewa, District Mahasamund Chhattisgarh.
5. Gram Panchayat, Pasid Through Its President, Tahsil And District Mahasamund Chhattisgarh.
6. Bhola Ram Nayak S/o Chamru Nayak Aged About 50 Years R/o Village And Post Pasid, Police Station Tumgaon, Tahsil And District Mahasamund Chhattisgarh.
7. Smt. Prabha Jain W/o Dilip Jain Aged About 50 Years C/o Chandika Travelers, R/o Near Bus Stand, Tahsil And District Mahasamund Chhattisgarh.

---Respondents

For Petitioners : Shri Punit Ruparel, Advocate
 For Respondents 1 to 4/State : Shri Vikram Sharma, Dy. Govt. Advocate

Hon'ble Acting Chief Justice Shri Prashant Kumar Mishra**Hon'ble Justice Shri N.K. Chandravanshi**

Order On Board

By

Hon'ble Shri Prashant Kumar Mishra, Acting Chief Justice

02.8.2021.

1. This writ petition, in the form of Public Interest Litigation, has been preferred seeking direction to the respondents/State authorities to remove encroachment and vacate the land bearing Khasra No.191, 25, old khasra No.33 & 33/1 present Khasra No.11, 34, 222, 223 and 6 situated at RI circle and Village Patewa, Distt. Mahasamund (CG).

2. According to the petitioners, the subject land recorded as *Bade jhad ka jangal* has been illegally encroached by respondent No.6 Bhola Ram Nayak and respondent No.7 Smt. Prabha Jain. Therefore, the State authorities should release the land from encroachment and restore it to the concerned department of the State Government.

3. Shri Vikram Sharma, learned Dy. Govt. Advocate appearing for respondents 1 to 4 would draw attention of this Court to the documents (Annexure-R/1), a report of the Naib Tahasildar, Mahasamund stating in details the actual scenario insofar as the possession over the subject khasra numbers are concerned. It is specifically stated in the report that Khasra No.34 (old Khasra No.33/1 द) was allotted to ancestors of respondent No.6 Bhola Ram Nayak when it was recorded as government land. However, consequent upon allotment it was possessed by the ancestors of Bhola Ram Nayak and thereafter it came in his possession. The land bearing Khasra No.11 (old khasra No.13/1 & 13/2); Khasra No.222, 223 (old khasra No.16); Khasra No.6 (old khasra No.6/1) were private lands as per the Record of Rights of the year 1955-56. Some part

of the lands were reserved for road and pagdandi in the Nistar Patrak / Wazib-ul-urz. Similarly, old Khasra No.6/1 was recorded in the name of Kuwarsingh Gond and old Khasra No.13/1 and 13/2 were recorded in the name of Judavan S/o. Meghva. Thus, as per the report, the above lands are private lands leaving only two khasra numbers i.e. Khasra No.25 & 191 being government lands, however, there is no encroachment on these khasra numbers on the spot. As per the report, inquest was prepared in the presence of the villagers and the petitioners refused to sign over the inquest though they were present at that time.

4. Shri Ruparel, learned counsel for the petitioner disputes the correctness of the report. However, the petitioner has not filed any rejoinder bringing new documents/evidence negating the contents of the report (Annexure-R/1), therefore, we have no hesitation in accepting the report.

5. In view of the above and for the reasons that no encroachment has been found over the land of subject khasra numbers, the writ petition is dismissed.

Sd/-

(Prashant Kumar Mishra)

Acting Chief Justice

Sd/-

(NK Chandravanshi)

Judge