

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 2948 of 2020

1. Sadanand Patel S/o Late Resham Lal Patel Aged About 47 Years R/o Village Bhedikona, Tehsil Dabra, District Janjgir Champa Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Its Secretary, Department of Revenue and Disaster Management, Mantralaya, Naya Raipur , District Raipur Chhattisgarh.
 2. The Director Food and Civil Supplies Cum Deputy Director At Directorate Raipur Chhattisgarh.
 3. The Collector Janjgir Champa , District Janjgir Champa Chhattisgarh.
 4. The Tehsildar Dabhara , District Janjgir Champa Chhattisgarh.
 5. The Chief Executive Officer Zila Sahkari Kendriya Bank Maryadit, Bilaspur , District Bilaspur Chhattisgarh.
 6. Sewa Sahakari Samiti Maryadit Puttdih Through Its Competent Officer, Puttidih, Tehsil Dabhara, Janjgir Champa Chhattisgarh.
 7. Lukeshwar Prasad S/o Late Roopdhar Singh Aged About 96 Years
 8. Goverdhan Lal S/o Late Girja Shankar Lal Aged About 65 Years
 9. Panna Lal S/o Late Khageshwar Prasad Aged About 85 Years
 10. Agnikuwar W/o Late Hemlal Patel Aged About 80 Years
 11. Chhabilal S/o Late Hemlal Pate Aged About 50 Years
 12. Sanjay Kumar S/o Late Heeralal Patel Aged About 47 Years
- Respondents No. 7 to 12 are R/o Village Bhedikona, Tehsil Dabra, District Janjgir Champa Chhattisgarh.

---Respondents

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Writ Petition (C) No. 3336 of 2020

1. Chhabilal Patel S/o Late Shri Hemlal Patel Aged About 52 Years
 2. Agnikuwar W/o Late Shri Hemlal Patel Aged About 80 Years
 3. Pannalal Patel S/o Late Khageshwar Prasad Patel Aged About 85 Years
 4. Lukeshwar Prasad Patel S/o Late Roopdhar Singh Aged About 96 Years
 5. Sanjay Kumar Patel S/o Late Hiralal Patel Aged About 47 Years
- All are R/o Village Bedhikona Tehsil Dabhara District Janjgir Champa Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Department Of Revenue Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
2. The Collector Janjgir Champa District Janjgir Champa Chhattisgarh.
3. The Sub Divisional Officer Dabhara District Janjgir Champa Chhattisgarh.
4. The Tehsildar Dabhara, District Janjgir Champa Chhattisgarh.
5. The Branch Manager Zila Sahakari Kendriya, Bank Maryadit, Bilaspur, Branc Dabhara, Tehsil Dabhara, Disrict Janjgir Champa Chhattisgarh.
6. Sewa Sahakari Samiti Maryadit Putidhih Centre No. 2866, Through In Charge Sanstha Praabhandhak, Putidhih, Tehsil Dabhara, District Janjgir Champa Chhattisgarh.

7. Sadanand Patel S/o Reshamlal Patel Aged About 47 Years R/o Village Bedhikona Tehsil Dabhara, District Janjgir Champa Chhattisgarh.

---Respondents

For Petitioners	:	Shri Kishore Bhaduri and Shri HS Patel (In WPC No.2948 of 2020) and Shri Kamal Kishore Patel, Advocate (in WPC No.3336 of 2020.)
For State	:	Smt. Hameeda Siddique, Dy. AG.
For Respondent No.5	:	Shri Prafull Bharat and Shri Jitendra Shrivastava, Advocates.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

27.01.2021

1. These are two writ petitions in respect of sale of paddy and the money to be received from the Government against sale of the paddy.
2. The petitioners in these two writ petitions are close relatives. The property involved in these two writ petitions as accepted by the two petitioners are the same. In between there were two round of litigations, the first being WPC No.429 of 2016 and the other being WPC No.2542 of 2016 and in both the writ petitions the High Court had left it for the revenue authorities to take a decision on the basis of the documents available.
3. The petitioner in WPC No.2948 of 2020 had approached the Tehsildar for an appropriate partition of the property wherein it was claimed that it was a joint family property and that they also are entitled for their share in the said property. The said application stands rejected vide order dated 10.11.2020.
4. The contention of the petitioner is that the said application has not been decided in accordance with law and sufficient opportunity of hearing has not been extended to the parties. The hearing was all held in the midst of Corona Pandemic where the parties could not firstly be effectively noticed and secondly they could also not contest or defend their case effectively. The prayer at this juncture is for remitting the matter back to the Tehsildar

for reconsidering the application of partition afresh and to pass a fresh order resolving the whole dispute between the two set of writ petitioners in the aforesaid two writ petitions. This request was acceptable to either of the petitioners.

5. The prayer to that extent though formally opposed by the counsel for the petitioners in WPC No.3336 of 2020 on the ground that the application has been duly considered by the Tehsildar and stands rejected and thereby the petitioners in WPC No.3336 of 2020 has already sold the entire paddy cultivated by them in the aforesaid disputed property.
6. Be that as it may, perusal of order sheets in the proceedings by which the Tehsildar has passed its order on 10.11.2020 would reveal that for a considerable period of time because of the effect of the Pandemic the proceedings could not be held and the matter was getting adjourned from time to time. Finally the matter was taken up for hearing and a decision was taken vide order dated 10.11.2020, therefore, this court prima facie is of the opinion that there appears that sufficient, fair and reasonable opportunity of defence was not made available to the parties to the dispute and the same needs to be re considered.
7. As regards the irreparable loss part is concerned, since the cultivated paddy has already been sold by the petitioners in WPC No.3336 of 2020, the only dispute now would be in respect of apportionment of the money which the government would be paying against the paddy that they have purchased. The whole issue itself can be resolved if the Tehsildar re considers his decision dated 10.11.2020 by deciding the application for partition moved by the petitioner in WPC No.2948 of 2020 afresh on priority basis at the earliest preferably within a period of two months. Meanwhile, it is ordered that payment which has to be made to the

petitioners in WPC No.3336 of 2020 for the purchase of paddy be as of now kept in hold till the Tehsildar passes a fresh order within the aforementioned period of two months time. The payments would have to be made in accordance with the fresh order that would be passed by the Tehsildar.

8. Needless to mention that in the event of any sale of paddy made by the petitioner in WPC No.2948 of 2020 from the same disputed property and in case if the other petitioners in WPC No.3336 of 2020 also have a claim, the same also would be decided subject to outcome of the decision of the Tehsildar on the aforementioned application to be decided.
9. With the aforesaid observations, both the writ petitions stand disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder