

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 4724 of 2021

- Ashwani Kumar Bandhe, S/o Mohan Lal Bandhe, Aged About 47 Years
R/o Village Baroda, Post And P.S. Mana Camp, Tahsil Arang, District
Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. Union of India Through Secretary Defense, New Delhi., District : New Delhi, Delhi
2. Union of India, Through Secretary, Supply And Rehabilitation Department New Delhi, District : New Delhi, Delhi
3. Union of India, Through Secretary Civil Aviation, New Delhi, District : New Delhi, Delhi
4. Managing Director, Airport Authority of India (Aai), Address- A.A.I. Building, Sufdarjang Airport, New Delhi., District : New Delhi, Delhi
5. Director, Vivekanand Airport, Civil Airport, Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
6. State of Chhattisgarh Through Secretary, Revenue Department, Mahanadi Bhawan, New Raipur, Raipur Chhattisgarh, District : Raipur, Chhattisgarh
7. Collector, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
8. Sub Divisional Officer/ Land Acquisition Officer (Revenue), Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
9. Nayab Tahsildar, Mandir Hasaud, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
10. Nava Raipur Development Authority, Through Managing Director, Nava Raipur, Development Authority, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	: Mr. Ravindra Sharma, Advocate.
For respondent No.1,2 & 3	: Mr. Tushar Dhar Diwan, Advocate.
For State	: Mr. Rahul Jha, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****23/11/2021**

Heard.

1. It is submitted by the counsel for the petitioner that ancestral land of the petitioner bearing khasra No.200/3, 201/2, 208/2, 295/2. Total measuring 34.33 acre was acquired by the Government at the time of Second World War in the year 1942, for the purpose of establishing the Refugee Camp. After the purpose of acquiring the lands was satisfied, the Department of Work and Housing by a letter dated 25.4.1985 remitted the land to the petitioner and there was a direction for payment of arrears of rent. Respondent No.2 has issued the letter dated 21.5.1985 for release of land. The Chief Commandant of Supplies and Rehabilitation Department issued a letter dated 7.2.1978 to Land Acquisition Officer, Raipur for fixation of rent of the acquired land and another letter dated 15.3.1978 was issued by the same authority directing payment of the compensation to the owner of the acquired land. The Chief Commandant Mana Camp by letter 5.4.1987(Annexure-P/6) to the Collector, Raipur requested the return of the land and also correction of the revenue records.
2. The revenue entry was made in favor of the State Government. The father of the petitioner came to know about the erroneous entry in the revenue record in 2004, which was without any acquisition, then he filed Writ Petition No.2928/2004, which was disposed off with direction that the representation of the petitioner be considered. The State Government failed to take any step, therefore, Mohan Lal Bandhe filed another Writ Petition No.380/2012, which was disposed off on

26.3.2012, directing the authorities to consider representation of the petitioner. The representation of the petitioner was not considered, therefore, a Contempt Case (Civil) No.85/2013 was filed, on which notice has been issued to the contemnor. Mohan Lal Bandhe has expired in the year 2013. It is submitted that taking advantage of incorrect entry in the revenue records, the State Government transferred the land of the petitioner to respondent No.10, regarding which the petitioner has raised objection. The petitioner then preferred application on 27.2.2018 before respondent No.9 for correction of the revenue records, on which the impugned order dated 23.1.2021 has been passed dismissing the prayer made by the petitioner.

3. It is submitted by the counsel for petitioner that the impugned order is illegal and arbitrary. The impugned order is not appealable, hence, the petition has been preferred. The petitioner is still continuing in possession of the lands in question.

Reliance has been placed on the judgment of Supreme Court in the case of Roy Estate Vs. State of Jharkhand and others, reported in AIR 2009 SC 2484 that the land belonging to the ancestral of the petitioner was requisitioned under the provisions of the Requisition and Acquisition of Immovable Property Act 1952. Any property cannot be requisitioned permanently. It is clear that the land belonging to the petitioner has not been acquired and no compensation has been paid for the same, therefore, the petitioner has a right and entitlement that the land that were requisitioned and which have been released by the requisitioning authority, that should be recorded in the name of the petitioner and his family members, hence, it is prayed that appropriate orders be passed.

4. Learned State Government opposes the submissions and submits that order passed by the respondent No.9 is appealable, therefore, the petition is not maintainable.
5. Considered on the submissions and perused the documents present in the record of the petition. The prayer made by the petitioner for correction of revenue records is certainly a prayer made by him under Section 116 of the Chhattisgarh Land Revenue Code, 1959. Under this provision, the Tahsildar has authority to make an inquiry and passed necessary orders. On perusal of the impugned order, it is found that the respondent No.9 has not made any inquiry before passing the impugned order, hence, impugned order itself has been passed in a manner which amounts to refusal to exercise the jurisdiction available to the respondent No.9, therefore, this petition is disposed off at motion stage. The impugned order is quashed. Respondent No.9 is directed to make an inquiry into the matter by affording opportunity to the petitioner for submitting evidence and documents and also make reference to the revenue records prior to the date the land was requisitioned and then pass appropriate speaking order.
6. With these observations, this petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge