

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 424 of 2021**

Sarpanch Gram Panchayat Beltukri, Through The Sarpanch Alka Verma
W/o Roshan Verma Aged 26 Years R/o Beltukri Block Nawagarh District
Bemetara Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through- The Secretary, Panchayat and Rural Development Department, Mantralaya New Raipur, District- Raipur Chhattisgarh.
2. The Secretary Department of Home Affairs, Mahanadi Bhawan, Mantralaya, New Raipur, District- Raipur (C.G.)
3. The Collector Bemetara, District- Bemetara (C.G.)
4. Assistant Director Fisheries Department, District- Bemetara (C.G.)
5. Radha Krishna Seva Sahayata Samuh Through- The President- Smt. Mamta Bai Yadav W/o Basna Yadav Aged 38 Years, R/o Village- Beltukri, Tahsil - Nawagarh, District- Bemetara Chhattisgarh

---- Respondents

(Cause-title taken from Case Information System)

For Appellant	: Mr. Awadh Tripathi, Advocate
For Respondents No. 1 to 4	: Mr. H.S. Ahluwalia, Deputy Advocate General
For Respondent No. 5	: Ms. Sharmila Singhai, Senior Advocate assisted by Mr. Kanaljeet Singh Saini, Advocate

Hon'ble Shri Arup Kumar Goswami, Chief Justice**Hon'ble Shri N.K. Chandravanshi Judge****Judgment on Board****Per Arup Kumar Goswami, Chief Justice****09.12.2021**

Heard Mr. Awadh Tripathi, learned counsel for the appellant. Also heard Mr. H.S. Ahluwalia, learned Deputy Advocate General appearing for the respondents No. 1 to 4 and Ms. Sharmila Singhai, learned senior counsel assisted by Mr. Kanaljeet Singh Saini, appearing for respondent No. 5.

2. This writ appeal is presented against an order dated 16.11.2021 passed by the learned Single Judge in Writ Petition (C) No.4570 of 2021, whereby the orders impugned in the writ petition, i.e. orders dated 19.05.2021 and 07.08.2021 passed by the respondent No. 3, were set aside.

3. By the order dated 19.05.2021, the respondent No. 3 had stayed a lease dated 04.07.2020 executed in favour of the writ petitioner. The writ petitioner had filed an application for vacating the stay order. By the subsequent order dated 07.08.2021, the respondent No. 3 had directed continuation of stay and it is in that background, the writ petition was filed by the writ petitioner.

4. It is submitted by Mr. Awadh Tripathi, learned counsel for the appellant that the learned Single Judge passed the order under assailment in this appeal on the very first day of listing of the case without issuing any notice to the respondent No. 5 / appellant herein, though it was on the basis of the application filed by the respondent No. 5 / appellant that respondent No. 3 had passed the orders which were impugned in the writ petition.

5. This position is not disputed by Ms. Singhai and by Mr. Ahluwalia.

6. The aforesaid orders dated 19.05.2021 and 07.08.2021, which came to be passed on the basis of the application filed by the respondent No.5/ appellant would go to show that in the writ proceeding, respondent No.5/ appellant was a necessary party.

7. The admitted position is that without issuing any notice to respondent No. 5/appellant, the writ petition came to be allowed.

8. In the case of *Johra and Others v. State of Haryana and Others*, reported in *(2019) 2 SCC 324*, the Hon'ble Supreme Court had laid down that no order can be passed prejudicial to the interest of a party without hearing such party and in the said case, the order having been passed without hearing such a party, the order passed was set aside.

9. In view of the above discussion, the order of the learned Single Judge dated 16.11.2021 is set aside. The writ appeal is allowed.

10. Registry is directed to list Writ Petition (C) No.4570 of 2021 as a fresh case on 13.12.2021 before the learned Single Judge having roster and the writ petitioner will be at liberty to pray for an interim order. We make it clear that we have expressed no opinion on merit and the learned Single Judge will pass such order as may be considered appropriate after hearing learned counsel for the parties.

Sd/-

(Arup Kumar Goswami)
Chief Justice

Sd/-

(N. K. Chandravanshi)
Judge