

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPPIL No. 162 of 2021

- Kripal Ram Dahariya S/o Late Shri Kodu Ram Dahariya, Aged About 50 Years Caste Satnami, R/o Village Dongri (Kathapali) Present Address E.W.S. 141, Maharana Pratap Nagar, Korba, District Korba Chhattisgarh, District : Korba, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Revenue Department, Mahanadi Bhawan, Atal Nagar, Mantralaya Raipur, Police And Revenue District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Collector, Janjgir Champa District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
3. Superintendent Of Police, Janjgir Champa, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
4. Tahsildar, Tahsil Balouda District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
5. Kamal Prasad S/o Late Shri Raruram, Aged About 56 Years Caste Satnami, R/o Village Dongri (Kathapali) P.S. And Tahsil Baloda, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
6. Kalindri Bai, W/o Late Shri Raruram, R/o Village Nariyara, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Respondents.

For the appellant :- Mr. Badal Lal Bhardwaj, Adv.
For the Respondent/State :- Mr. Gagan Tiwari, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri,
Hon'ble Shri Justice N.K. Chandravanshi.

Order on Board by Justice Goutam Bhaduri, J.

21.12.2021

Heard on IA No.1 of 2021 – application seeking leave for waiver of the locus standi and also heard on admission.

2. The grievance of the petitioner is that the land bearing Khasra No.20 admeasuring 0.247 acres which belongs to the State Government wherein a water body/pond situates along with the C.C. road have been encroached upon by the respondents No.5 and 6. He would submit that the revenue documents which are placed on record show that initially by playing fraud, the name of the respondents No.5 and 6 namely Kamal Prasad and Kalindri Bai were recorded which was subsequently got corrected and the name of the State was restored. Learned counsel for the petitioner would further submit that on the said land, since the C.C. road situates which reaches to the school, because of the obstruction put-up by the respondents No.5 and 6, the children are not able to go to school by using the said C.C. road. Apart from that, a pond also situates over the said land on which the encroachment has been made. Therefore, the general public at large are deprived of the use of said pond. He would also submit that the petitioner is a resident of Village Dongri (Kathapali), District Korba and is the aggrieved person espousing the cause of the general people at large including the children who have right to go to the school by using the C.C.

road which is on the Government land. He further submits that he has made an application to the Collector, Janjgir-Champa and Tahsildar, Tahsil Baloda, District Janjgir-Champa complaining about such encroachment by respondents No.5 and 6 but till date nothing has transpired.

3. On the other hand, State counsel would submit the issue which is placed before this Court needs a factual finding and acceptance of the allegation cannot be made at this stage, and the Collector may decide the application of the petitioner to find out the factual finding.

4. Having regard to the facts of this case, the petitioner is complaining that Khasra No.20 which belongs to the State Government have been encroached upon by the respondents No.5 and 6 and thereby depriving the general public at large to use the said road and the pond which situates over such land. In such case, what is the nature of encroachment, if any, is to be factually ascertained. The submission of the petitioner cannot be accepted as a gospel truth, which needs to be looked into. Therefore, the Revenue Authorities, Tahsilder and the Collector of the concerned district/ village are directed to decide the application of the petitioner dated 12.06.2021 (Annexure-P/1) within a further period of six months and may pass the suitable order in accordance with the statute of the C.G. Land Revenue Code.

It is further directed that the Collector/Tahsildar while hearing such application shall give an opportunity of hearing to the parties against whom the complaints are made including the petitioner and they may also submit the necessary evidence to substantiate their rival claims including the copy of revenue documents.

5. The petitioner shall be at liberty to approach the Collector with the copy of this order along with the representation within a period of two weeks from today

With these observations this petition stands **disposed of**. No cost(s).

Sd/-

(Goutam Bhaduri)
Judge

Sd/-

(N.K. Chandravanshi)
Judge

Ajay