

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 445 of 2021**

Shri Sanjay Roy, S/o Shri Kalipad Roy, aged about 56 years, Caste –
Namosudra, R/o Village East Boregaon, Tahsil Farasgaon, District
Kondagaon (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh Through Secretary, Department of Revenue,
Minsitry, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur
(C.G.)
2. The Collector, Kondagaon, District Kondagaon (C.G.)
3. Sub-Divisional Officer (Revenue) Farasgaon, District Kondagaon (C.G.)
4. Tahsildar, Tahsil Farasgaon, District Kondagaon (C.G.)
5. Gopal Roy, S/o Shri Bhagyadhar, aged about 82 years, Caste –
Namosudra, R/o Village East Boregaon, Tahsil Farasgaon, District
Kondagaon (C.G.)
6. Mukund Roy, S/o Shri Bhagyadhar, aged about 80 years, Caste
Namosudra, R/o Village East Boregaon, Tahsil Farasgaon, District
Kondagaon (C.G.)

---- Respondents

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Purit Ruparel, Advocate.
For Respondents No. 1 to 4	:	Mr. Vikram Sharma, Deputy Government Advocate.
For Respondents No. 5 and 6	:	Mr. Alok Kumar Dewangan, Advocate.

Hon'ble Shri Arup Kumar Goswami, Chief Justice

Hon'ble Shri Justice N.K. Chandravanshi, Judge

Judgment on Board

Per Arup Kumar Goswami, Chief Justice

17.12.2021

Heard Mr. Purit Ruparel, learned counsel for the appellant. Also heard Mr. Vikram Sharma, learned Deputy Government Advocate appearing for respondents No. 1 to 4 and Mr. Alok Kumar Dewangan, learned counsel appearing for respondents No. 5 and 6.

2. This appeal is presented against an order dated 10.11.2021, whereby, the respondent No. 4 was directed to take up the proceeding in execution of an order dated 18.07.2019 passed in Revenue Case No. 01/A-70/2018-19 against respondent No. 5 therein (appellant herein) and to execute the same at the earliest, preferably within a period of 45 days.

3. Admittedly, no notice was issued to the respondent No. 5 (appellant herein), despite his eviction was sought in terms of the order dated 18.07.2019.

4. A perusal of the order of the learned Single Judge would go to show that the writ petition was filed alleging inaction of respondent No. 4 in initiating process for eviction of respondent No. 5 (appellant herein).

5. Mr. Ruparel submits that the order of learned Single Judge is liable to be set aside on the ground of violation of principles of natural justice as in the said case, neither notice was issued to respondent No. 5 (appellant herein) nor the respondent No. 5 (appellant herein) was heard before passing the impugned order. It is submitted that the writ petitioners knowingly suppressed the fact that being aggrieved by the order dated 07.01.2021 passed by the respondent No.3, the appellant had preferred an appeal under Section 250 of the

Chhattisgarh Land Revenue Code, 1959, which was registered as Appeal Case No. 202103950100025/A-70/20-21. It is submitted that initially challenging the order of Tahsildar dated 18.07.2019, the appellant had preferred an appeal before the Sub Divisional Officer (Revenue) Farasgaon, District Kondagaon and the same having been dismissed on 07.01.2021, the appeal was preferred against the order of the Sub Divisional Officer (Revenue) on 15.03.2021.

6. The Commissioner, while admitting the appeal on 22.03.2021 had also passed an order of *status quo*.

7. It is submitted by Mr. Ruparel that inspite of the petitioner being aware of the said order, suppressing the aforesaid order of *status quo*, writ petition was filed.

8. Mr. Alok Kumar Dewangan submits that it is correct that the appeal is pending and order of status quo was passed in such appeal as submitted by Mr. Ruparel. He, however, submits that it cannot be said from the materials on record as to whether the writ petitioners were aware of the pendency of the aforesaid proceeding when the writ petition was filed.

9. Having regard to the fact that an appeal is pending, the direction as made by the learned Single Judge cannot be allowed to be sustained.

10. In that view of the matter, the order of the learned Single Judge is set aside.

11. The writ appeal is allowed. No cost.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(N.K. Chandravanshi)
Judge