

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 5255 of 2021**

Khemchand S/o Chowaram Aged About 74 Years R/o Village Uraidabri,
Tahsil Dongargarh, District Rajnandgaon Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Ministry Of Revenue, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.
2. The Collector, District Rajnandagon Chhattisgarh.
3. Gram Panchayat Jhandatalab Through Its Sarpanch, Village Uraidabri, Tahsil Dongargarh, District Rajnandgaon Chhattisgarh.

---- Respondents

For Petitioner/s	:	Mr. Shaleen Singh Baghel, Advocate
For State/Res. No.1 & 2	:	Mr. Rahul Jha, GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/12/2021**

1. The present writ petition has been filed seeking for following reliefs :-

“a. This Hon'ble Court may be pleased to call for the records from the respondent concerned pertaining to the case of the petitioner for kind perusal.

b. This Hon'ble Court may be pleased to direct the respondent authorities concerned to deliver vacant possession of 0.20 decminal government land of Khasra No.261/1 situated in village Uraidabri, Tahsil Dongargarh, District Rajnandgaon or to allot alternative land of same measurement in same locality or at some other locality in the facts and circumstances of the case.

c. Cost of the proceedings.

d. Any other writs and directions that may be deemed fit and just in the facts and circumstances of the case.”

2. During the course of the hearing, it has been found that it is the dispute which originally arose in the year 1988 which is alleged that the property belonging to the petitioner was taken over by the respondent for the purpose of construction of pond.
3. The grievance of the petitioner is that against the said land which was acquired he was provided alternative land at two places 0.30 Hectares in Khasra No.213 and 0.20 Hectares in Khasra No.261/1. However he was given possession of only the land which was offered in Khasra no. 213 and the land also offered in Khasra No.262/1, the possession of which was not given to the petitioner.
4. Contention of the petitioner is that the said land at Khasra NO.261/1 was already allotted to somebody else even before the property of the petitioner was acquired by the respondent authorities and therefore he has filed the present writ petition for the aforementioned reliefs.
5. Learned State counsel on the other hand opposing the petition submits that the writ petition at the first instance would not be maintainable for the reason that the claim of the petitioner has already been subjected to test in a Civil suit where petitioner was unsuccessful and the suit got dismissed on 8.1.1996. That the judgment and decree passed in the civil suit has already got affirmed in first appeal as also in second appeal where the two appeals has been dismissed vide order dated 20.11.1996 and 06.02.2013. Learned counsel for the State submits that there was yet another civil suit filed by the petitioner thereafter which too got dismissed on 19.09.2018. Thus, after all these developments, it would not be proper for this Court to exercise the power of judicial review or

exercise Writ jurisdiction in the given factual backdrop for the grant of relief which has been sought for.

6. Having heard the contentions put forth on either side and on perusal of records and also considering the dispute and contentions put forth by the State counsel in respect of there being two civil suits which were filed by both of which having got dismissed. Given the fact that petitioner has already made a similar claim by way of civil suit and where he was unsuccessful and order passed by the Civil Court having been affirmed both in the first appeal as also in the second appeal and moreover, the second civil suit filed by the petitioner also having been dismissed, the petitioner now cannot be permitted to adjudicate his grievance by way of a writ petition availing the reliefs through the Writ Jurisdiction of this Court.
7. Under the circumstances of the case, this Court is of the opinion that subsequent writ petition for the same cause of action which has already been adjudicated upon uptill the stage of second appeal would not be permissible and writ petition therefore devoid of merits stands rejected.

Sd/-
(P. Sam Koshy)
Judge