

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 5340 of 2021**

Brijlal Kawachi S/o Late Jalam Kawachi, Aged About 65 Years R/o Village And Post Mordongri, Police Station And Tahsil Kanker, District North Bastar Kanker Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur Chhattisgarh
2. Collector, District Kanker Chhattisgarh
3. Assistant Commissioner, Tribal Department Branch, Kanker, District North Bastar Kanker Chhattisgarh

---- Respondents

For Petitioner/s	:	Mr. Kishore Narayan, Advocate
For State	:	Mr. Ashish Tiwari, GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/12/2021**

1. The petitioner through the present writ petition has assailed the Annexure P-3 dated 02.12.2021 issued by the office of the District Collector, District North Bastar, Kanker.
2. The notice has been issued calling upon the petitioner's explanation in respect of the patta which was issued in favour of the petitioner under the forest rights.
3. The contention of the petitioner is that rightly or wrongly the petitioner has a patta issued in his favour from the competent authority issued in the year 2021. The petitioner has been in possession of the said piece of land for the last 8 decades. The petitioner has been provided the Patta under the Scheduled Tribes and Other traditional Forest Dwellers(Recognition of Forest Rights) Act of 2006. The contention of the

petitioner is that once when the patta has been issued in favour of the petitioner, there is no provision under the said Act of 2006 by which the petitioner's issuance of patta can be canceled. Counsel for the petitioner submits that the authorities did find some right in his favour and that was the reason patta was issued and accordingly there cannot be an order of eviction now initiated by the respondent authorities.

4. State counsel on the other hand opposing the petition submits that the writ petition itself at this juncture would not be maintainable for the reason that it is only at a show cause notice stage. State counsel further opposing the petition submits that he can take all these the contentions in his reply or explanation that has been called upon which shall be considered by the authorities in accordance with law. State counsel further drew the attention to the contents of the notice wherein certain discrepancies have been highlighted for initiating the proceedings for cancellation of Patta.
5. Be that as it may, considering the fact that it is only a show cause notice stage and petitioner has been called upon to submit his explanation, the petitioner has all the rights and opportunity to approach the concerned authorities by filing the detailed reply supported with all relevant documents and provisions of law in support of his contentions. Upon such reply being filed, the respondent no.3 in turn acting on behalf of the respondent no.2 shall duly consider and scrutinize the contents of the explanation that the petitioner shall provide and after due scrutiny, verification of facts the authorities would be taking an appropriate decision.
6. Considering the fact that last date for submission of the explanation as per Annexure P-3 is 20.12.2021 in the interest of justice the petitioner is granted four more weeks' time to submit a reply and subject to the

petitioner furnishing the explanation/reply to Annexure P-3 by 20.01.2022. The Respondent Authorities are directed to take appropriate decision after due verification and scrutiny of facts and contentions that the petitioner would take and also keep in mind the provision of law under which the Patta has been issued and under which the patta is said to be cancelled.

7. Till an appropriate decision is taken by the respondent no.2 and 3 on the show cause proceedings, no coercive steps shall be taken by the respondent authorities in getting the petitioner evicted from the portion of land over which he has been granted patta.
8. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit