

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 5480 of 2021

1. Smt. Arti Khes W/o Shri Lal Singh Khes, Aged About 32 Years
R/o. Village - Koyadipa Kalami Thana - Kotra Road, Tahsil And
District - Raigarh Chhattisgarh
2. Akash S/o Late Shri Rajendra Sharma, Aged About 36 Years
R/o. Village - Koyadipa Kalami Thana - Kotra Road, Tahsil And
District - Raigarh Chhattisgarh
3. Smt. Vinita Kujur W/o Shri Eliyazar Kujur, Aged About 34 Years
R/o. Village - Koyadipa Kalami Thana - Kotra Road, Tahsil And
District - Raigarh Chhattisgarh
4. Smt. Seeta Yadav W/o Shri Udhav Yadav, Aged About 36 Years
R/o. Village - Koyadipa Kalami Thana - Kotra Road, Tahsil And
District - Raigarh Chhattisgarh
5. Smt. Prabha Bhagat W/o Late Shri Jagannath Bhagat, Aged
About 40 Years R/o. Village - Koyadipa Kalami Thana - Kotra
Road, Tahsil And District - Raigarh Chhattisgarh
6. Bhuri Mahant W/o Late Shri Samaylal Mahant, Aged About 60
Years R/o. Village - Koyadipa Kalami Thana - Kotra Road, Tahsil
And District - Raigarh Chhattisgarh
7. Smt. Saroj Bhagat W/o Shri Phulkeshan Bhagat, Aged About 35
Years R/o. Village - Koyadipa Kalami Thana - Kotra Road, Tahsil
And District - Raigarh Chhattisgarh
8. Smt. Kunti Lata Sahu W/o Shri Kamlesh Sahu, Aged About 41
Years R/o. Village - Koyadipa Kalami Thana - Kotra Road, Tahsil
And District - Raigarh Chhattisgarh
9. Vinod Patel S/o Shri Ravishanker Patel, Aged About 37 Years
R/o. Village - Koyadipa Kalami Thana - Kotra Road, Tahsil And
District - Raigarh Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh, Through The Secretary Revenue
Department, Mantralaya Mahanadi Bhawan, Capital Complex,
Atal Nagar Raipur, District - Raipur Chhattisgarh.
2. Collector, Raigarh District - Raigarh Chhattisgarh
3. Sub Divisional Officer (Revenue) Raigarh, District - Raigarh
Chhattisgarh
4. Nayab Tahsildar Raigarh, District - Raigarh Chhattisgarh
5. Station House Officer, Police Station Kotra Road Raigarh,
District - Raigarh Chhattisgarh
6. Chandagi Ram Cold Storage And Real State Through Director
Satish Agrawal S/o Shri Vijay Agrawal, R/o. Raigarh, Tahsil And
District - Raigarh Chhattisgarh

---- Respondents

For Petitioners : Shri Sumit Shrivastava, Advocate.
For State : Shri Alok Bakshi, Additional Advocate General
For Respondent No.6: Shri Yogesh Pandey, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

27.12.2021

1. The petitioners have filed the present writ petition assailing the proceedings initiated by the Tahsildar, Raigarh by which warrant for removal of encroachment under Section 250 of the C.G. Land Revenue Code, 1959 has been issued.
2. Learned counsel for the petitioners would submit that the appeal under 44(1) of the Chhattisgarh Land Revenue Code against the action initiated by Tahsildar for removal of encroachment is pending consideration before the learned Sub Divisional Officer (Revenue), Raigarh. Further contention of the learned counsel for the petitioners is that the petitioners are residing in the disputed land as detailed in the memo of appeal for last 13 years. Therefore, they have acquired title over the disputed land on count of adverse possession and prayed for quashing of the proceedings initiated by the Tahsildar, Raigarh as well as order dated 08.11.2021 passed by the Tahsildar, Raigarh.
3. Learned Sub Divisional Officer (Revenue) vide its order dated 14.12.2021 rejected the interim application filed by the petitioners without considering the ingredients of grant of interim injunction i.e. whether the petitioners have prima facie case in their favour for balance of convenience or whether petitioners will suffer irreparable loss if the interim application filed by the petitioners is not considered. The appeal filed by the petitioners is still pending consideration and the matter is fixed on 29.12.2021 for production of original records and further hearing.
4. Learned counsel for the petitioners would submit that learned Sub Divisional Officer (Revenue) be kindly directed to decide the appeal within one month and till then, statu quo, as exists today with regard to the disputed land, kindly be maintained.

5. On the other hand, learned Additional Advocate General Shri Bakshi would submit that the proceedings initiated by the Tahsildar is legal and justified, as such, interference is not called for by this Court at this juncture.
6. Learned counsel for respondent No. 6 would submit that no such proceedings have been initiated, only mediation and conciliation proceedings are going on, therefore, the petition at present is at premature stage.
7. Be that as it may, since the learned Sub Divisional Officer (Revenue) without considering the ingredients for grant of interim relief has rejected the interim application, thus committed illegality and irregularity which warrants interference by this Court. Therefore, the order dated 14.12.2021 deserves to be and is hereby quashed and it is ordered that the status quo as it exists today shall be maintained till the final disposal of the appeal with regard to the disputed land. The learned Sub Divisional Officer (Revenue) is directed to decide the appeal within an outer limit of one month from today. It is made clear that the petitioners will not take any undue advantage of this order and will not try to seek any adjournment on any pretext.
8. With the aforesaid observations, the Writ Petition (C) is disposed off finally.
9. Certified copy today.

Sd/-
(Narendra Kumar Vyas)
Vacation Judge