CGHC010155802024 2026:CGHC:43108

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2492 of 2024

Reserved on 18.08.2026

Delivered on _06.10.2026

SHYNA AJAY

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Date: 2026.10.09 10:31:51 +0530

Sitaram Chandra S/o Shyambandhu Chandra, Aged About 64 Years, Resident Of Malkharoda, Tahsil Malkharoda, District Sakti (C.G.)

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Revenue And Disaster Management Development Department, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur (C.G.)

2 - The Collector District Sakti (C.G.)

3 - The Sub-Divisional Officer (Revenue), Malkharoda District Sakti (C.G.)

4 - The Tahsildar, Malkharoda District Sakti (C.G.)

... Respondent(s)

(Cause Title downloaded from CIS Periphery)

For Petitioner(s) : Mr. HS Patel, Advocate
For Respondent(s) : Mr. Shobhit Mishra, Dy. GA

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. By way of the present petition, the petitioner calls in question the legality, propriety and correctness of the eviction/removal notice dated 16.2.2024 issued by the concerned respondent authority (respondent No.4). By virtue of the said notice, the petitioner has been directed to remove an alleged encroachment upon land bearing Khasra No.623/11, measuring a total area 1.50 acres. The alleged encroachment comprises a tin shed constructed on the front portion of the property as well as a parcel measuring 34 x 17 = 578 sq. ft. situated behind his residential premises. The petitioner also assails the subsequent show cause notice dated 15.4.2024, under which the concerned authorities have again called upon him to submit an explanation regarding an alleged further encroachment beyond the extent of land granted under the Patta.

2. The petitioner has prayed for the following reliefs in the petition :

> *10.1 That, this Hon'ble Court may kindly be pleased to call the records pertaining to the case from the respondent authorities.*
> *10.2 That, this Hon'ble Court may kindly be pleased to set-aside/quash the show cause notice and eviction proceedings registered by the*

respondent no. 2 against the petitioner in case No. 202404310100002/B-121.

10.3 That, the Hon'ble Court may kindly be pleased to direct the respondent authorities not to take any coercive step against the petitioner for removal from the subject land for which the petitioner is holding patta.

10.4 To kindly grant any other relief which may be deem fit in the given facts and circumstances of the instant case.

3. Brief facts of the case, as projected by the petitioner, are that the petitioner has been in peaceful possession of a portion of Government land bearing Khasra No.623/1 since the year 1970, upon which he has constructed a residential house. Owing to the unregularized nature of his possession and his status as an encroacher, the petitioner applied for allotment of a Patta in respect of the aforesaid land under his occupation measuring about 0.05 decimal out of Khasra No.623/1 situated at Village Malkharoda, District Sakti (CG). On completion of the requisite formalities and after obtaining due NOC/recommendation from the concerned Gram Panchayat, the concerned Tehsildar, after due process of law, granted Patta to the petitioner for the aforesaid land admeasuring 0.05 decimals out of Khasra No.623/1 vide order dated 15.06.1996. Subsequent to the allotment of the Patta, the revenue records were duly mutated in the name of the petitioner. However, acting upon certain complaints submitted before the Sub Divisional Officer (SDO) seeking cancellation of

Patta, the concerned SDO proceeded to cancel the Patta so granted. Being aggrieved, the petitioner preferred an appeal before the Collector, who, vide order dated 16.11.2000, remanded the matter back to the Tehsildar for fresh consideration. After due verification and inquiry, the Tehsildar reported that the Patta was lawfully granted to the petitioner and on this basis, the SDO subsequently passed an order directing mutation of the subject land in favour of the petitioner. Thereafter, Gram Panchayat, Malkharoda filed a fresh complaint seeking cancellation of the Patta granted in favour of the petitioner. The Tehsildar vide order dated 18.4.2006, rejected the said complaint, holding that the Patta had been issued in accordance with law and suffered from no illegality. The authority specifically observed that an identical complaint had been previously dismissed and repetitive complaints on the same cause of action could not be entertained. The petitioner remained in continuous, peaceful possession and occupation of the subject land. However, in the year 2024, the Tehsildar arbitrarily issued an eviction notice to the petitioner, on the premise that he is an illegal occupant having encroached upon a portion of Government land. At this juncture, the respondent authorities have set up a novel idea that the land in respect of which Patta was granted to the petitioner was earlier recorded as '*Chhote Jhad Ka Jungle*', which could not have been granted on lease and therefore, the petitioner is liable to be evicted. The petitioner contended that the impugned action is driven by an ulterior motive, as the authorities intend to construct a

Civil Court building over the subject land and are somehow attempting to dispossess the petitioner under the garb of an eviction notice. It was further contended that ample alternative land is available in the immediate vicinity where the Civil Court building can easily be constructed. However, these material facts have been completely disregarded by the respondent authorities and continue to subject the petitioner to repeated show cause notices. The issues having already been duly verified and laid to rest, any attempt to reopen the same is impermissible, being barred by the doctrine of *res judicata*. In the present case, behind the back of the petitioner and in gross violation of principles of nature justice, the concerned SDO submitted an ex-parte report to the Collector alleging that the subject land falls under the classification of "*Chhote Jhad Ka Jungle*" and that the petitioner is in unauthorized possession thereof by manipulating revenue records. In view of the aforesaid facts, the respondent authorities issued a show cause notice to the petitioner, who tendered a detailed reply establishing that a valid Patta had been issued in his favour by the competent authority after due verification and that the said grant has never been set-aside or revoked by any competent forum. Therefore, after the lapse of over 50 years of continuous, peaceful and settled possession, the petitioner cannot now be dispossessed or evicted from the subject land. The petitioner was granted Patta under the Madhya Pradesh *Gramon Me Ki Dakhalrahit Bhumi (Vishesh Upabandh) Adhiniyam*, 1970, which is a piece of beneficial socio-economic legislation enacted

by the State Government to settle residential land with landless individuals. The allotment having been executed in accordance with law after proper verification and the revenue proceedings having thus attained finality, the settled rights of the petitioner cannot be subjected to perpetual review or reopened on the basis of subsequent complaints preferred by interested third parties. All the Revenue Authorities up to the hierarchy of the Collector, have duly verified the facts and only after a due enquiry was the Patta granted in favour of the petitioner. The said Patta cannot now be sought to be cancelled on the belated pretext that the subject land falls under the classification of '*Chote Jhad Ka Jungle'*. The petitioner having constructed a residential house upon the subject land, continues to remain in uninterrupted and settled possession thereof. Having verified such possession and lawfully issued the Patta, the respondent authorities cannot now be permitted to take a complete somersault, alleging that the land is non-allottable forest land.

4. Mr. HS Patel, learned counsel for the petitioner submits that upon a complaint being preferred earlier, the matter escalated to the Collector, who specifically directed the concerned SDO to submit an enquiry report. After receipt of the report, the Collector remanded the matter to the concerned Tehsildar for factual verification. Upon conducting due verification, the Tehsildar submitted a report affirming that the Patta had been lawfully conferred upon the petitioner following due process of law. Therefore, the matter having attained finality, the grant cannot be

subjected to repeated administrative scrutiny or cancelled by entertaining successive complaints on identical grounds. He submits that the complainants harbor personal animosity against the petitioner and are driven by malafide intentions to harass him by any means necessary, which explains the filing of repetitive and frivolous complaints. He further submits that the subject land has been in the lawful occupation of the petitioner, who constructed a residential dwelling thereon and has been peacefully residing with his family for over 50 years. After the passage of such a prolonged period of settled possession, the impugned eviction notice seeking to treat the petitioner as an encroacher is *per se* illegal, arbitrary and demonstrative of a colourable exercise of power by the respondent authorities. Hence, the impugned notice is liable to be quashed.

5. On the other hand, learned counsel for the State submits that the Patta granted in favour of the petitioner is not in accordance with law. He submits that the subject land stands recorded as "*Chote Jhad Ka Jungle*" in the revenue records, constituting non-allottable communal/forest land and therefore, no valid lease or Patta could have been granted over the same. He further submits that the petitioner is in unauthorized occupation of land in excess of the area sanctioned under the Patta. He submits that while the petitioner was granted a lease for only 0.05 decimals of land in Khasra No.623/1, he has encroached upon a substantially larger extent than what was granted. He submits that a perusal of the impugned notice itself reflects that the petitioner was only directed

to remove the unauthorized encroachment over the excess land. Learned counsel for the State submits that once the petitioner was found to be in occupation of land in excess of the area granted to him under the Patta, he is under a legal obligation to vacate and remove such unauthorized encroachment. He submits that the petitioner cannot be allowed to retain possession over and above the specific extent sanctioned under the lease granted to him.

6. Heard learned counsel for the parties and also perused the documents annexed with the petition with utmost circumspection.

7. Evidently, a residential Patta was conferred upon the petitioner over land admeasuring 0.05 decimals forming part of Khasra No.623/1. A bare perusal of the impugned notice clearly manifests that the grievance of the respondent authorities is confined to an alleged unauthorized construction raised in front of the petitioner's residential dwelling and the purported occupation of land in excess of the sanctioned grant under the Patta conferred upon him. Therefore, the direction issued to the petitioner is restricted strictly to the removal of such additional construction raised by him to the extent it is in excess of the sanctioned 0.05 decimals of land forming part of Khasra No.623/1. In the previous proceedings initiated against the petitioner for alleged encroachment, the said proceedings were dropped on the sole ground that the petitioner had been granted a valid Patta over the subject land and therefore, could not be treated as an encroacher. However, with respect to the alleged possession over land in excess of the grant, I am of the view that the petitioner cannot be permitted to occupy

extra land under the garb of the Patta/lease conferred upon him. The petitioner's right is strictly restricted to the precise area allotted to him, admeasuring 0.05 decimals forming part of Khasra No.623/1 and he cannot claim any legal right or title to retain possession beyond the parameter of the statutory grant.

8. In the matter of **Jagpal Singh and others Vs. State of Punjab and others** reported in **(2011) 11 SCC 396**, the following was held in para 23 :

> ***23.*** *Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorised occupants of the Gram Sabha/ Gram Panchayat/ poramboke/shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show-cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularising the illegal possession. Regularisation should only be permitted in exceptional cases e.g. where lease has been granted under some government notification to landless labourers or members of the*

Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.

9. Reverting to the facts of the present case, in view of the aforesaid discussion and in light of the aforesaid judgment, this Court is of the considered view that the petitioner has no right to retain possession beyond the area covered by the original Patta. Accordingly, any occupation in excess of the sanctioned area of 0.05 decimals forming part of Khasra No. 623/1 would constitute unauthorized occupation and is liable to be removed. To that extent, the Writ Petition is dismissed.

10. However, the petitioner would be at liberty to file an appropriate application before the competent revenue authorities seeking allotment/settlement of the excess land in accordance with the prevailing policy or law. On such application being filed, the respondent authorities are empowered to consider and pass appropriate orders thereon in accordance with law, uninfluenced by any observations made herein. It is further clarified that this Court has not expressed any opinion on the merits of the case regarding the petitioner's claim over the excess land.

11. With the aforesaid observations/directions, the Petition stands disposed of.

Sd/-

(Amitendra Kishore Prasad)
Judge

Shyna Ajay