CGHC010191692022 2026:CGHC:45682

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2579 of 2022

RAVVA UTTEJ KUMAR RAJU Digitally signed by RAVVA UTTEJ KUMAR RAJU Date: 2026.10.29 17:57:11 +0530

Order Reserved on 08.09.2026

Order Passed on 29.10.2026

1 - Awadh Verma S/o Late Janak Verma Aged About 52 Years R/o Village Khaira, Tehsil Nandghat, District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh

2 - Santosh Verma S/o Late Janak Verma Aged About 48 Years R/o Village Khaira, Tehsil Nandghat, District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh

... Petitioner

Versus

1 - State of Chhattisgarh Through Secretary Revenue Department Mantralaya, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh

2 - The Collector District Bemetara Chhattisgarh.

3 - The Sub Divisional Officer (Revenue) Navagarh District Bemetara Chhattisgarh.

4 - The Tehsildar Nandghat District Bemetara Chhattisgarh.

5 - Santosh Barle S/o Samaru Barle Aged About 37 Years R/o Village Aakoli,

Tehsil Nandghat , District Bemetara Chhattisgarh., District : Bemetara, Chhattisgarh

... Respondents

(Cause title is downloaded from CIS Periphery.)

For Petitioners	:	Mr. Sunil Kumar Soni, Advocate.
For State	:	Mr. Anway Tiwari, P.L. for the State.
For Respondent No. 5	:	Mr. Parag Kotecha, Advocate.

Hon'ble Mr. Justice Amitendra Kishore Prasad

C.A.V. Order

1. The petitioners have filed the present petition challenging the impugned order dated 31.05.2022, whereby the Tehsildar, Nandghat, District Bemetara (C.G.), in proceedings initiated under Section 248(2) of the Chhattisgarh Land Revenue Code (C.G.L.R.C.), has ordered the eviction of the petitioners from the government land bearing Khasra Nos. 138 and 83/4, situated at Village Khaira, Nandghat, District Bemetara (C.G.). By the said order, the Tehsildar has also imposed a penalty of Rs. 25,000/- upon the petitioners. The present petitioners have filed this petition by seeking following reliefs:-

> "**10.1** This Hon'ble Court may Graciously be pleased to Hold that the Action on the Part of the Respondent Authorities is Patently Arbitrary, Capricious besides being Illegal and Perverse to Articles 14 & 21 of the Constitution of India.
>
> **10.2** This Hon'ble Court may Graciously be pleased to issue Appropriate Writ, Order or Direction thereby Quashing Impugned Order Dated 31.05.2022 Along

with Impugned Eviction Notice Dated 02.06.2022 (Annexure-P/2 Colly).

10.3 This Hon'ble Court may kindly be Pleased to Call for the Records of Case.

10.4 Any other relief, which this Hon'ble Court may deem fit and Proper for the Just Adjudication of the case and protecting Constitutional Rights of the Petitioners.

10.5 Cost of the Petition."

2. Briefly stated, the facts of the case as adumbrated in the petition is that the respondent No. 5 has made a complaint against the petitioners that the present petitioners have illegally encroached upon the government land bearing Khasra No. 137/1 admeasuring area 0.17 hectare situated at Village Kharia, Nandghat, District Bemetara which belongs to respondent No. 5, and as such the respondent No. 5 is facing great hardship in doing his agricultural operations, upon this the concerned Tehsildar has registered a Revenue Case under Section 248 of the C.G.L.R.C., 1959 and has issued notice to the present petitioners and has also called report from the concerned Revenue Authorities. The concerned Tehsildar has issued notice and has obtained reply from the present petitioners has called report from the concerned Halka Patwari upon which it was found that the land bearing Khasra No. 137/1 admeasuring area 0.17 hectares is recorded in the

Revenue Records in the name of respondent No. 5 and land bearing Khasra No. 137/2 admeasuring area 0.37 hectares were recorded in the name of brother of respondent No. 5 namely Heera Ram, however, both the lands were adjacent to the government land bearing Khasra No. 138. It was also found that the present petitioners have encroached upon the portion of government land bearing Khasra No. 138 which is about 2,100 sq. ft and is adjacent to Raipur-Bilaspur National Highway in which the present petitioners have illegally occupied the said land and have raised permanent construction while constructing one restaurant namely Kisan Dhabha, one tyre repairing shop and also haircutting salon namely Mouli hair cutting salon. They have further occupied the open land to be used as a parking place of the vehicles. Due to the aforesaid illegal occupation of the land by the petitioners, the respondent No. 5 is facing hardship to enter into his own land. In the Revenue Records as maintained by the Patwari, in the portion of government land bearing Khasra No. 83/4 admeasuring area 0.40 hectares, one Kisan Dhabha (restaurant), being operated as also one another business activity namely Treasurer Charitable Endowment Fund is being operated which belongs to government land recorded in the name of State of Chhattisgarh. In one part of Khasra No. 83/4 one Jio mobile tower was also erected. The concerned Tahsildar after making enquiry and after recording evidence of the parties have found that due to the illegal encroachment as made by the petitioners,

the respondent No. 5 is facing hardship and is not being able to approach his own land, further the petitioners have illegally occupied the land belonging to the State Government while erecting pakka building upon the same in which they are running their business activities. As such, the concerned Tehsildar while taking recourse of Section 248 of the Chhattisgarh Land Revenue Code, 1959 has passed the order for removal of encroachment from the aforesaid land. They are further directed to inform the authorities of Jio Mobile Tower for removal of the aforesaid tower. Since, the concerned Tehsildar has also found that the encroachment was made in an illegal and arbitrary manner and as such, the penalty of Rs. 25,000/- was also imposed upon the petitioners.

3. Learned counsel for the petitioners submits that the concerned Tehsildar had no jurisdiction to impose a penalty of Rs. 25,000/- upon the petitioners, as, under Section 248(2) of the Chhattisgarh Land Revenue Code, 1959 (for short, "the C.G.L.R.C."), such jurisdiction vests with the concerned Sub-Divisional Officer (Revenue). It is further submitted that the impugned order has been passed in undue haste and without affording the petitioners a reasonable and effective opportunity of hearing. The matter was fixed for passing of orders on 17.05.2022; however, the impugned order was ultimately passed on 31.05.2022 without granting any further opportunity of hearing to the petitioners and behind their back. Learned counsel further submits that the petitioners were

not afforded a proper opportunity to contest the proceedings, including an opportunity to cross-examine the witnesses whose statements were relied upon by the concerned authority. It is, therefore, contended that the impugned order dated 31.05.2022 has been passed in violation of the principles of natural justice and without following the procedure prescribed under law and, consequently, the same, along with the consequential eviction notice dated 02.06.2022, deserves to be quashed and set aside.

4. Reliance has been placed upon the order dated 17.04.2023 passed by this Court in CRA No. 1724 of 2022, in the matter of ***Arun Kumar Keshri and Others v. State of Chhattisgarh.***

5. *Ex adverso*, learned counsel appearing for the State submits that the impugned order dated 31.05.2022, insofar as it directs removal of the encroachment, is well within the four corners of law. It is contended that the petitioners have illegally occupied government land without any authority or lawful right and, not only have they encroached upon the said land, but have also raised permanent constructions thereon and are carrying on their business activities from the encroached premises. He next submits that, from the report of the concerned Patwari as well as the evidence recorded by the concerned Tehsildar, it is clearly established that the petitioners have illegally occupied the government land, raised constructions thereon and are running their businesses from the said premises, and therefore, the Tehsildar has rightly directed their eviction from the encroached

land. So far as the imposition of penalty of Rs. 25,000/- is concerned, learned counsel fairly submits that the Tehsildar is empowered to impose penalty only up to Rs. 10,000/- and, where a higher penalty is warranted, the matter is required to be referred to the concerned Sub-Divisional Officer (Revenue). He also submits that this aspect may be considered by this Court, particularly in view of the order dated 15.06.2022, whereby this Court had stayed the impugned order only to the extent of imposition of penalty, while the remaining part of the order was not stayed. It is further submitted that the petitioners cannot be permitted to continue their illegal occupation of government land, particularly when they have raised constructions thereon and are carrying on commercial activities without any lawful authority. According to learned counsel, there is no justification for interference with the order insofar as it relates to removal of the illegal encroachment, and the only issue requiring consideration is the legality of the penalty of Rs. 25,000/- imposed by the Tehsildar. He submits that, if this Court finds that the penalty has been imposed without jurisdiction, the State has no objection to interference with the penalty portion of the impugned order; however, the State strongly opposes any interference with the direction relating to removal of the illegal occupation of government land, and accordingly, the petition deserves to be dismissed to that extent.

6. Learned counsel appearing for the respondent No. 5 supports the submission of learned counsel for the state and submits that the impugned order dated 31.05.2022 has been passed after due enquiry and upon consideration of the revenue records, Patwari's report and the material available on record, which clearly establish that the petitioners have illegally encroached upon the government land and raised permanent constructions thereon for carrying out commercial activities. It is further submitted that such illegal encroachment has caused serious hardship to respondent No. 5 in accessing and cultivating his adjoining land. Learned counsel supports the direction for removal of the encroachment and submits that the petitioners, having no lawful right or authority to occupy the government land, cannot be permitted to continue in such illegal possession. He further contends that so far as the imposition of penalty is concerned, the same may be dealt with in accordance with the provisions of Section 248(2) of the C.G.L.R.C.; however, there is no justification for interfering with the order directing removal of the illegal encroachment, and the petition, to that extent, deserves to be dismissed.

7. In ***Arun Kumar*** *(supra)*, this Court, in paragraphs 13 and 14, has held as under, which are reproduced hereinbelow for ready reference:-

> "**13**. Before parting with the case, this Court deems it appropriate to refer to the directions given in the judgment rendered by the Hon'ble Supreme Court in the matter of ***Jagpal***

***Singh v. State of Punjab*, (2011) 11 SCC 396,** for preparing the schemes for removal of encroachment/ eviction of illegal/unauthorised occupants, inspite of directions, officers posted at the field level not discharging their duties with utmost care and the disciplinary authorities are also not viewing such misconduct seriously, that significantly promote the illegal encroachment of Government land. The relevant paras of the said judgment read thus :-

> **'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.

24. Let a copy of this order be sent to all the Chief Secretaries of all States and Union Territories in India who will ensure strict and prompt compliance with this order and submit compliance reports to this Court from time to time.'

14. In light of the above principles laid down by the Hon'ble Supreme Court and also in view of the observations made in this order, it is expected from the State to ensure that periodically, at least once in a year, the concerned Patwari, after making survey, whenever the fact of encroachment of Government land comes to his notice, shall send a report to the concerned Tahsildar for taking appropriate steps expeditiously. In turn, the Tahsildar shall draw the proceeding under Section 248 of the Code and while passing the order, not only impose fine but simultaneously shall also pass an order against such person, who shall be liable, at the discretion of the Tahsildar, to pay the rent of the land for the period of his unauthorised occupation at twice the rate admissible for such land in a locality. Further, the matter shall be reported to the concerned SDO (Revenue), if any person continues in unauthorized occupation or possession of land for more than seven days after the date of order of ejectment."

8. Having heard learned counsel for the parties and upon perusal of the material available on record, as well as the provisions contained in Section 248 of the Chhattisgarh Land Revenue Code, 1959 (for short, "the C.G.L.R.C."), this Court finds that the

concerned Tehsildar was competent to pass an order directing removal of the encroachment and eviction of the petitioners from the government land. However, insofar as imposition of penalty is concerned, the jurisdiction of the concerned Tehsildar is confined to imposing a fine up to Rs. 10,000/-, and any fine exceeding the said amount is required to be imposed by the competent Sub-Divisional Officer (Revenue) upon reference of the matter by the Tehsildar. Thus, the imposition of penalty of Rs. 25,000/- by the concerned Tehsildar is without jurisdiction to the extent of the excess amount and cannot be sustained in law. At the same time, the challenge to the eviction order is devoid of merit. The record demonstrates that the petitioners were duly noticed and afforded sufficient opportunity to submit their reply and lead their defence. In particular, the order-sheet dated 12.05.2022 reflects that the petitioners were specifically afforded an opportunity to cross-examine the concerned Halka Patwari, whose report constituted material evidence regarding the alleged encroachment; however, the petitioners expressly declined to cross-examine him and chose instead to submit written arguments, which they subsequently filed on 13.05.2022. The petitioners have also failed to demonstrate that they had sought an opportunity to cross-examine any other witness or that such opportunity was denied to them. In these circumstances, the plea that the impugned order dated 31.05.2022 was passed behind their back or in violation of the principles of natural justice cannot be accepted. The material

on record, including the revenue records, the report of the Halka Patwari and the evidence considered by the concerned Tehsildar, sufficiently establishes the petitioners' unauthorized occupation of government land, and the petitioners have failed to establish any lawful right, title or authority to remain in such occupation. Consequently, no interference is warranted with the direction for removal of encroachment and eviction.

9. Accordingly, the petition is **partly allowed**. The order dated 31.05.2022 is affirmed insofar as it directs removal of the encroachment and eviction of the petitioners from the government land. However, the penalty of Rs. 25,000/- imposed by the Tehsildar is set aside to the extent of want of jurisdiction, and the matter is remitted to the concerned Tehsildar to refer the question of imposition of penalty to the competent Sub-Divisional Officer (Revenue), who shall consider the matter and pass an appropriate order in accordance with law after affording due opportunity to the petitioners. So far as the eviction from the government land is concerned, if the petitioners have not already removed the encroachment, the concerned Tehsildar shall take necessary steps for removal of the encroachment forthwith in accordance with law. The long pendency of the proceedings since 2022 and the absence of any subsisting interim protection in favour of the petitioners warrant no further indulgence in respect of the unauthorized occupation of government land.

10. With this observation and direction, this petition stands **disposed of.**

11. No order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

U.K. Raju