CGHC010201592022 2026:CGHC:46847

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Order Reserved on 28.10.2026

Order Passed on 05 .11.2026

WPC No. 2849 of 2022

1 - Gopal Prasad Soni S/o Late Ram Sunder Prasad Soni Aged About 53 Years R/o Sattipara (Ambikapur), Tahsil Ambikapur, District Surguja Chhattisgarh.

2 - Smt. Sanju Soni W/o Gopal Prasad Soni, Aged About 48 Years R/o Sattipara (Ambikapur), Tahsil Ambikapur, District Surguja Chhattisgarh.

... Petitioners

Versus

1 - State of Chhattisgarh Through The Secretary, Department Of Revenue, Mahanadi Bhawan, Atal Nagar New- Raipur.

RAVVA UTTEJ KUMAR RAJU Digitally signed by RAVVA UTTEJ KUMAR RAJU Date: 2026.11.05 15:47:20 +0530

2 - The Collector, District Surguja Chhattisgarh.

3 - The Sub Divisional Officer (Revenue) Ambikapur, District Surguja Chhattisgarh.

... Respondents

(Cause title is downloaded from CIS Periphery.)

For Petitioners	:	Mr. Md. Ruhul Ameen Memon, Advocate.
For State	:	Mr. Avinash Chand Sahu, Dy. A.G.

Hon'ble Mr. Justice Amitendra Kishore Prasad

C.A.V. Order

1. The petitioners have preferred the present writ petition challenging the order dated 06.04.2022 passed by the Board of Revenue, Bilaspur (C.G.), in Revenue Revision Case No. R.N./16/R/A-20/239/2017, pertaining to Village/City Ambikapur, Tahsil Ambikapur, District Surguja (C.G.), whereby the revision petition filed by the petitioners has been dismissed. The petitioners are seeking following reliefs:-

> *"10.1 The Hon'ble Court may kindly be pleased to issue appropriate writ/writs, direction/directions, order/orders and to set-aside the order dated 06.04.2022 (Annexure P-1) passed by the learned Chhattisgarh Board of Revenue, Bilaspur, in Revenue Revision Case No. R.N./ 16/R/A-20/239/2017, arising out of order dated 05.12.2016 passed by Collector, Surguja, in Revenue Revision Case No. 29/A-20/2015-16 and order dated 09.10.2017 passed by Commissioner, Surguja Division, Surguja, Ambikapur, in Revenue Revision Case No. 09/A-20/2016-17.*
>
> *10.2 The Hon'ble Court further be pleased to allow this petition and to restrained the respondent authorities from dispossession of the petitioners from the land in question for which Patta is granted to them.*

10.3 Any other relief, which the Hon'ble Court deems fit looking to the facts and circumstances of the case, may also be granted to the petitioners."

2. The brief facts of the case, as projected by the petitioners, are that they were granted a residential patta in the year 1998 under the Rajiv Gandhi Ashray Yojna, framed by the State Government under the Chhattisgarh Nagriya Kshetron Ke Bhoomihin Vyakti (Pattadhriti Adhikaro Ka Pradan Kiya Jana) Adhiniyam, 1984, for a period of 30 years in respect of land admeasuring 782 square feet, forming part of Khasra No. 3380/1, situated at Village Sattipara, Ambikapur, District Surguja (C.G.), vide Revenue Case No. 552/A-20/1997-98. It is stated that the petitioners were already residing on the said land after constructing a hutment and, pursuant to the grant of patta, constructed a pucca house thereon, where they have been residing since then. Subsequently, on 31.01.2012, one Dinendra Nath Mukharjee lodged a complaint before the Collector, Surguja, alleging that the petitioners had obtained the patta by furnishing false documents and affidavits. Pursuant thereto, the Collector called for inquiry reports from the Sub-Divisional Officer (Revenue), Ambikapur, and the Nazul Officer, Ambikapur, who submitted their respective reports dated 12.06.2013 and 03.08.2013. While the Nazul Officer, in his report, found no illegality or irregularity in the grant of patta, the matter was subsequently reopened on the basis of another complaint made by the same complainant before the Lok Aayog,

Chhattisgarh, Raipur, in the year 2016. The Lok Aayog forwarded the complaint to the Collector, Surguja, on 01.07.2016 for appropriate action. Thereafter, the Collector, vide order dated 05.12.2016, cancelled the patta granted to the petitioners, relying upon the inquiry report dated 12.06.2013 submitted by the Sub-Divisional Officer (Revenue), without considering the report dated 03.08.2013 submitted by the Nazul Officer, which had found no illegality or irregularity in the grant of patta. Being aggrieved by the order dated 05.12.2016 passed by the Collector, Surguja, the petitioners preferred Revenue Revision No. 09/A-20/2016-17 before the Commissioner, Surguja Division, Ambikapur, which came to be dismissed vide order dated 09.10.2017. Thereafter, the petitioners challenged the said order before the Chhattisgarh Board of Revenue, Bilaspur, by filing Revenue Revision No. R.N./16/R/A-20/239/2017. However, the Board of Revenue, vide its order dated 06.04.2022, dismissed the revision petition. The petitioners have, therefore, preferred the present writ petition challenging the order dated 06.04.2022 passed by the Board of Revenue, Bilaspur, affirming the cancellation of the patta granted in their favour.

3. Learned counsel for the petitioners submits that the impugned orders passed by the Collector, Commissioner and the Board of Revenue are legally unsustainable, being contrary to the material available on record. It is contended that the petitioners were separately granted pattas on 14.07.1998 under the Rajiv Gandhi

Ashray Yojna, in accordance with the provisions of the Chhattisgarh Nagariya Kshetron Ke Bhoomihin Vyakti (Pattadhriti Adhikaron Ka Pradan Kiya Jana) Adhiniyam, 1984. The petitioner No.1 was allotted 782 sq. ft. of land, which is within the permissible limit of 800 sq. ft. under the Scheme. The pattas were granted after due scrutiny and verification, and the petitioners have constructed their residential house and have been residing thereon since then. It is further submitted that the proceedings for cancellation of the pattas were initiated on the basis of a complaint dated 31.01.2012 made by one Dinendra Nath Mukharjee, after a lapse of nearly fourteen years from the date of allotment. Although the Collector initially called for an inquiry report from the Sub-Divisional Officer (Revenue), Ambikapur, and thereafter, being dissatisfied with the same, obtained a further report from the Nazul Officer, Ambikapur, dated 03.08.2013, the latter report, which specifically pointed out deficiencies in the earlier inquiry and found no illegality or irregularity in the grant of pattas, was completely ignored. The Nazul Officer had specifically observed that the correction made in the area of land allotted to petitioner No.1 was duly authenticated by the seal and signature of the competent authority and that the inquiry conducted by the Sub-Divisional Officer was deficient, having been prepared without affording an opportunity of hearing to the petitioners and without proper spot inspection. Despite calling for the subsequent report, the Collector, while passing the order dated 05.12.2016,

relied solely upon the earlier report dated 12.06.2013 and cancelled the pattas without assigning any cogent reason for discarding the report of the Nazul Officer. He next submits that the Collector committed an error in treating the separate allotments made in favour of the petitioners as a single allotment merely because they were residing jointly. It is contended that the pattas were separately granted after due verification and that, under the Explanation to Section 2(d) of the Act of 1984, a major son or married daughter is not included within the definition of family. Therefore, the separate allotments could not have been clubbed together to hold that the land allotted exceeded the permissible limit under the Scheme. It is also contended that the proceedings were initiated on 18.07.2016, on the basis of an inquiry report dated 12.06.2013, after an unexplained delay of more than three years, and nearly eighteen years after the original grant of pattas. In this regard, reliance is placed upon Section 4-A of the Act of 1984, which provides for revisional jurisdiction of the Collector and stipulates a period of thirty days for entertaining an application for revision. He also submits that the proceedings initiated after such an inordinate delay were not maintainable. It is further argued that the petitioners have been in settled possession of the land since 1998 and have constructed their residential house thereon, and no violation of the terms and conditions of the grant has been established against them. Reference is also made to Section 182(2) of the Chhattisgarh Land Revenue Code, 1959, to contend

that the petitioners have not committed any act attracting their ejectment as a Government lessee. The cancellation of their pattas, without proper inquiry and without affording them an effective opportunity of hearing, is thus stated to be contrary to law and the principles of natural justice. It is lastly contended that the Board of Revenue has erroneously dismissed the revision on the ground that the dispute arose under the Act of 1984 and not under the Chhattisgarh Land Revenue Code, 1959. According to learned counsel, the Collector had exercised *suo motu* revisional jurisdiction under Section 50 of the Chhattisgarh Land Revenue Code, 1959, and, therefore, the Board of Revenue ought to have examined the legality of the Collector's order on merits instead of rejecting the revision on the ground of lack of jurisdiction. It is further submitted that the Commissioner, Surguja Division, as well as the Board of Revenue, have mechanically affirmed the order of the Collector without considering the material evidence on record, particularly the report dated 03.08.2013 submitted by the Nazul Officer, the deficiencies in the earlier inquiry, the separate nature of the allotments and the petitioners' long-standing possession. He, therefore, submits that the impugned orders suffer from non-application of mind, perversity, arbitrariness and violation of the principles of natural justice and are liable to be set aside.

4. Reliance has been placed upon the decisions of the Hon'ble Supreme Court in ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai & Ors.*** reported in **(1998) 8 SCC 1**; in ***Radha***

Krishan Industries v. State of Himachal Pradesh & Ors. reported in **(2021) 6 SCC 771**; and in ***M/s Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority & Ors***. reported in **(2023) 3 SCC 788**.

5. Per contra, learned State counsel opposes the writ petition and submits that the Board of Revenue has rightly declined to entertain the revision, holding that the dispute arises under the provisions of the Chhattisgarh Nagariya Kshetron Ke Bhoomihin Vyakti (Pattadhriti Adhikaron Ka Pradan Kiya Jana) Adhiniyam, 1984, and is not amenable to the revisional jurisdiction of the Revenue Court. It is further submitted that the petitioners have already suffered dismissal of their challenge before the Collector, Surguja, as well as the Commissioner concerned, and, therefore, cannot seek to re-agitate the same issue before this Court. He next contends that due opportunity of hearing was afforded to the petitioners before the Collector as well as the Commissioner and, hence, their allegation of violation of the principles of natural justice is misconceived. He further submits that the inquiry report submitted by the concerned Nazul Officer-cum-S.D.O. specifically revealed that the petitioners had encroached upon Government land beyond the area allotted to them under the pattas and that unauthorized corrections had also been made in the patta documents. On the basis of the said report and the material available on record, the Collector rightly cancelled the pattas granted in respect of 782 sq. ft. of land forming part of Khasra No.

3380/1. It is also submitted that, during the proceedings before the Collector, Smt. Laxmi Devi, wife of Ram Sundar Prasad Soni, had categorically stated that no opportunity of hearing had been afforded to her before the Sub-Divisional Officer (Revenue), despite the allegations concerning encroachment and unauthorized corrections in the patta documents. Accordingly, the Collector rightly directed correction of the revenue records by deleting the names of the petitioners and recording the land in the name of the State. The Collector also directed removal of the encroachment made by the complainant, Dinendra Nath Mukherjee, over 0.09 acres of land forming part of Khasra No. 3380/1. On these grounds, learned State counsel submits that the impugned orders call for no interference by this Court.

6. The Hon’ble Supreme Court in the matter of M/s Godrej Sara Lee Limited (supra) has held in paras 4 & 8 which are reproduced hereinunder for ready reference:-

> “**4**. Before answering the questions, we feel the urge to say a few words on the exercise of writ powers conferred by Article 226 of the Constitution having come across certain orders Before answering the questions, we feel the urge to say a few words on the exercise of passed by the high courts holding writ petitions as 'not maintainable' merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction. The power to issue prerogative writs under Article 226 is plenary in nature. Any limitation on the

exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to Article 32 9 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the high court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the high courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under Article 226 that has evolved through judicial precedents is that the high courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the high court under Article 226 has not pursued, would not oust the jurisdiction of the high court and render a writ petition 'not maintainable'. In a long line of decisions, this Court has made it clear that availability of an alternative remedy does not operate as an absolute bar to the 'maintainability' of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided by a statute, is a rule of policy, convenience and discretion rather than a rule of law. Though

elementary, it needs to be restated that 'entertainability' and 'maintainability' of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to 'maintainability' goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of 'entertainability' is entirely within the realm of discretion of the high courts, writ remedy being discretionary. A writ petition despite being maintainable may not be entertained by a high court for very many reasons or relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. Hence, dismissal of a writ petition by a high court on the ground that the petitioner has not availed the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper.

8. That apart, we may also usefully refer to the decisions of this Court reported in (1977) 2 SCC 724 (State of Uttar Pradesh & ors. vs. Indian Hume Pipe Co. Ltd.) and (2000) 10 SCC 482 (Union of India vs. State of Haryana). What appears on a plain reading of the former decision is that whether a certain item falls within an entry in a sales tax statute, raises a pure question of law and if investigation into facts is unnecessary, the high court could entertain a writ petition in its discretion even though the alternative remedy was not availed of; and, unless exercise of discretion is shown to be unreasonable or perverse, this Court would not interfere. In the latter decision, this Court found the

issue raised by the appellant to be pristinely legal requiring determination by the high court without putting the appellant through mill of statutory appeals in the hierarchy. What follows from the decisions is that where the controversy is a purely legal one and it does not involve disputed questions of fact but only questions of law, then it should be decided by the high court instead of dismissing the writ petition on the ground of an alternative remedy being available."

7. The Hon'ble Supreme Court in the matter of Radha Kishan Industries (supra) has held in paras 25 to 27 which reads as under:-

"**25**. In this background, it becomes necessary for this Court, to dwell on the "rule of alternate remedy" and its judicial exposition. In Whirlpool Corporation v. Registrar of Trademarks, Mumbai 21, a two judge Bench of this Court after reviewing the case law on this point, noted:

"**14**. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of *habeas corpus*, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on (1998) 8 SCC 1 ("Whirlpool") PART C some old decisions of the evolutionary era of the constitutional law as they still hold the field." (emphasis supplied).

26. Following the dictum of this Court in Whirlpool (supra), in Harbanslal Sahnia v Indian Oil Corpn. Ltd. 22, this court noted that

"**7**. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed is concerned, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies:

(i) where the writ petition seeks enforcement of any of the fundamental rights;

(ii) where there is failure of principles of natural justice; or

(iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. See Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1)].

The present case attracts applicability of the first two contingencies. Moreover, as noted, the appellants' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings." (emphasis supplied)

27 The principles of law which emerge are that :

"(i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;

(ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person; (2003) 2 SCC 107 PART C

(iii) Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right

protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged;

(iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;

(v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and

(vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of

the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.

8. Having heard learned counsel for the parties and upon perusal of the material available on record, it appears that the dispute pertains to cancellation of the lease/patta granted under the Chhattisgarh Nagariya Kshetron Ke Bhoomihin Vyakti (Pattadhriti Adhikaron Ka Pradan Kiya Jana) Adhiniyam, 1984. The concerned Collector cancelled the lease/pattas granted in favour of the petitioners, and the said order was subsequently affirmed by the Commissioner. Considering the facts and circumstances of the case, it appears that the petitioners have an alternative remedy of approaching the State Government by way of revision against the order passed by the concerned Commissioner. In this regard, Part IV of the Revenue Book Circular provides for consideration by the State Government of matters relating to the grant of pattas. The Board of Revenue has, therefore, rightly declined to entertain the revision on the ground that the matter was not within its revisional jurisdiction. It is also relevant to note that the present writ petition has been pending before this Court since 17.06.2022 and an interim order directing maintenance of status quo was passed on 30.06.2022. In view of the availability of the aforesaid alternative remedy, this Court is not inclined to examine the merits of the controversy at this stage. Accordingly,

the petitioners are granted liberty to approach the State Government by way of revision, challenging the order passed by the Commissioner, within a period of 30 days from the date of receipt of a copy of this order. In the event such revision is preferred within the stipulated period, the State Government shall consider and decide the same, in accordance with law, after affording due opportunity of hearing to the petitioners and other concerned parties.

9. It is further directed that the interim order dated 30.06.2022, whereby the parties were directed to maintain status quo, shall continue to operate for a period of 30 days from the date of receipt of a copy of this order, so as to enable the petitioners to avail the aforesaid remedy. It is made clear that this Court not expressed any opinion on the merits of the case and the competent authority shall take an independent decision in accordance with law.

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

Sd/-

(Amitendra Kishore Prasad)
Judge

U.K. Raju