CGHC010233312026 2026:CGHC:46386

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SHYNA AJAY

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Date: 2026.11.03 18:55:24 +0530

WPC No. 2993 of 2026

Reserved on 25.08.2026

Pronounced on 03.11.2026

1 - Bablu Kadti S/o Somaru Kadti, Aged About 38 Years, R/o Labour Hatment, Ward No. 09, Old Market, Badebacheli Dakshin Bastar, Distt- Dantewada (C.G.)

2 - Mimichand Chouhan S/o Dukku Ram Chouhan, Aged About 31 Years R/o Ward No. 09, Badebacheli, Dakshin Bastar, Dantewada, Distt- Dantewada (C.G.)

3 - Anil Kumar Kashyap S/o Chamru Kashyap, Aged About 33 Years, R/o Ward No. 01, Badebacheli, Dakshin Bastar, Dantewada, Bacheli, Distt- Dantewada (C.G.)

4 - Saybo Sodhi S/o Podla Sodhi, Aged About 38 Years, House No. 11, Labour Hatment, Ward No. 08, Badebacheli, Dakshin Bastar, Distt- Dantewada (C.G.)

5 - Raimon Kumar Madkami S/o Late Ando Madkami, Aged About 36 Years, Labour Hatment, R/o Ward No. 09, Old Market Badebacheli Distt- Dantewada (C.G.)

6 - Fulmati Sodi W/o Chaitram Sodi, Aged About 33 Years, R/o Dole Para, Jaunga, Dakshin Bastar Distt- Dantewada (C.G.)

7 - Vijjo Tati W/o Kari Ram Tati, Aged About 28 Years, R/o House No. 05, Ward No. 01 School Para, Matenar, Netapur, Dakshin Bastar Distt- Dantewada (C.G.)

8 - Laxmi Kawasi D/o Rajesh Kumar Kashyap, Aged About 39 Years R/o House No. 12, Ward No. 08, Badebacheli, Dakshin Bastar Distt- Dantewada (C.G.)

9 - Shanti Vek C/o Sukhram Vek, Aged About 33 Years R/o Ward No. 09, Badebacheli, Distt- Dantewada (C.G.)

10 - Bijmani Bhogami D/o Budru Bhogami, Aged About 33 Years, R/o Padapur, Ward No. 08, Badebacheli, Dakshin Bastar, Distt- Dantewada (C.G.)

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Secretary, Forest Department, Raipur, District- Raipur (C.G.)

2 - District Collector Dantewada Distt- South Bastar, Dantewada (C.G.)

3 - Sub Divisional Officer (Re), Sub Division Badebacheli, Distt- South Bastar, Dantewada (C.G.)

4 – Tahsildar, Badebacheli, Distt- South Bastar, Dantewada (C.G.)

5 - Divisional Forest Officer, Badebacheli, Distt- South Bastar, Dantewada (C.G.)

6 - General Manager (Human Resource) N. M. D. C. Ltd. Bacheli, Tah-Badebacheli Distt- Dantewada (C.G.)

... Respondent(s)

(Cause Title downloaded from CIS Periphery)

For Petitioner(s)	:	Mr. Mohammad Waquar Rizvi, Advocate
For Respondents 1 to 5/State	:	Mr. Anand Dadariya, Dy. AG
For Respondent No.6	:	Ms. Naushina Afrin Ali, Senior Advocate with Mr. Topilal Bareth, Advocate

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. By the present Writ Petition, the petitioners challenge the impugned order dated 04.06.2026 passed by the Sub-Divisional Officer (Re), Sub Division Badebacheli, District South Baster, Dantewada (CG) {Respondent No. 3}, as well as the consequential memo dated 13.06.2026 directing their eviction and demolition of their residential premises. The petitioners contend that they have resided on the land in question for over seven decades and the impugned eviction order came to passed on the basis of an assurance of compensation by Respondent No.6, unbacked by any framed scheme of rehabilitation. In pursuance thereof, on 14.06.2026 (Sunday), the respondents executed the demolition under the provisions of Section 152 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short "BNSS 2023") and the

Indian Forest Act, 1927, leaving the petitioners homeless without alternative shelter amidst the ongoing monsoon season.

2. The petitioners have prayed for the following reliefs :

> *10.1 Direct the Respondents to provide immediate temporary shelter, especially in view of the rainy season, along with basic amenities.*
> *10.2 Direct rehabilitation and resettlement of the Petitioners within a fixed timeframe.*
> *10.3 Direct assessment and payment of adequate compensation.*
> *10.4 Direct consideration of allotment of suitable residential accommodation or land.*
> *10.5 Direct production of the applicable rehabilitation policy.*
> *10.6 Pass any other relief protecting the rights of the petitioners, in the interest of justice.*

3. The factual matrix, borne from the pleadings on record, are that the petitioners are members of the Scheduled Tribes, who, along with their families, comprising aged dependents and minor children, claim to have resided near Tailing Dam No.1, Badebacheli, District South Bastar Dantewada, for about seven decades. On 2.8.2025, Respondent No. 6 (General Manager (Human Resources), NMDC Ltd., Bacheli) issued a letter to Respondent No. 3 (Sub Divisional Officer {SDO}) and thereafter addressed a letter dated 6.8.2025 to Respondent No. 2 (District Collector). The communication recorded that while monsoon rains had damaged the Bacheli Complex near Tailing Dam No. 01, no loss of life or property had occurred. However, citing safety

concerns, the concerned authority requested the removal of the petitioners, labelling them as unauthorized occupants. Acting upon the said request, Respondent No. 3 directed the Tahsildar (Respondent No. 4) by communications dated 30.09.2025 and 8.10.2025 to initiate steps for the eviction of the occupants. A spot inspection and *Panchnama* were subsequently prepared by Respondent No. 4 on 8.10.2025. Revenue proceedings (Case No. 20251016060028 Year 2024-25) were initiated by Respondent No. 4. However, vide order-sheet dated 10.11.2025, the proceedings were dropped on the ground that since the land in question pertained to the Forest Department, the revenue court lacked jurisdiction. The matter did not rest there. On 30.4.2026, Respondent No. 3 instituted fresh proceedings under Section 152 of the BNSS 2023, alleging public nuisance (Case No. 202602161500010 /Section-152/ 2025–26). Though notices were issued and replies submitted, Respondent No. 3 proceeded to pass the impugned order of eviction on 4.6.2026. This order relied solely on an assurance of monetary compensation offered by Respondent No. 6, omitting any provision for rehabilitation. Ultimately, Respondent No. 3 issued a demolition memo dated 13.6.2026. On the next day (Sunday) i.e. 14.6.2026, the administrative machinery moved to demolish the petitioners' dwellings and forcibly evict them under Section 152 of BNSS 2023 as also under the relevant provisions of the Indian Forest Act, leaving them unsheltered at the onset of the monsoon season.

4. Mr. Mohd. Waquar Rizvi, learned counsel for the petitioner submits that the petitioners have been left homeless and dispossessed, forced to endure the full rigor of the ongoing monsoon season without basic shelter, safe drinking water or sanitation facilities. The immediate physical exposure to harsh weather conditions constitutes an active, irreparable hazard to the life, safety and dignity of the petitioners and their dependent families. He further submits that the Right to Life under Article 21 is not confined to mere physical existence, but guarantees the right to live with human dignity, which intrinsically encompasses the right to safe shelter. He also submits that demolishing structures and dispossessing citizens solely on the basis of unfulfilled administrative assurances, without prior operational rehabilitation, is arbitrary and discriminatory, violating Article 14 of the Constitution of India. He further submits that under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 {hereinafter referred to as the Forest Rights Act"), no tribal or traditional forest dweller can be evicted or displaced unless a complete rehabilitation plan, offering equivalent replacement land and basic public facilities is arranged for them in advance. However, the Respondent authorities have acted in complete contravention of these mandatory statutory safeguards. The dispossession executed by Respondent No. 6 upon the assurance of compensation fails to satisfy the touchstone of a fair, just and reasonable procedure established by law. He also submits that

certain women petitioners are pregnant and the common accommodation presently provided to them is not suitable considering their medical condition. Upon complaints made by the petitioners, SDO(R), Badebacheli, District Dantewada directed NMDC to provide alternative residential accommodations to the concerned petitioners from 14.6.2026 to 15.10.2026. He lastly submits that the failure of the State and Respondent No. 6 to provide immediate emergency relief or temporary shelter during the ongoing monsoon constitutes a clear breach of their constitutional duty.

5. Mr. Anand Dadariya, learned counsel for the State submits that on 02.08.2025, a portion of Tailing Dam No. 01 situated at the Badebacheli Complex of Respondent No. 6 (NMDC Ltd.) collapsed. Technical evaluations conducted by Experts from the Indian Institute of Technology (IIT) Bombay revealed active seepage of water mixed with fine sludge from the dam base, confirming an imminent threat of further catastrophic structural failure during the monsoon season. According to report, the Experts from IIT Bombay explicitly advised for immediate evacuation and relocation of residents downstream in the impact zone to prevent severe loss of life and property. He further submits that acting upon the urgent request of Respondent No. 6 and the technical recommendations of the Experts from IIT Bombay, the State authorities initiated proceedings under Section 152 of the BNSS 2023. Keeping public safety as a priority, the impugned order dated 04.06.2026 was passed to remove

unauthorized structures situated within the high-risk impact zone at Village Padhapur. He further submits that the State took proactive measures to shelter the displaced occupants. Displaced families were initially provided temporary shelter at the Community Hall of the Badebacheli Municipal Council and the Mangal Bhavan of NMDC Bacheli Project. In view of the ongoing monsoon season and the presence of vulnerable individuals, including pregnant women, the State invoked Section 65 of the Disaster Management Act, 2005 (in short “the Act, 2005”). He further submits that vide orders dated 18.06.2026 and 19.06.2026, 11 residential quarters belonging to Respondent No. 6 (Type-1 DS Quarter Nos. 3, 22, 25, 33, 35, 36, 45, 56, 74, 96, and 113) were temporarily requisitioned and physical possession was duly granted to the affected families. He submits that the petitioners are unauthorized encroachers over Reserve Forest Land No. 1844 (Range & Tahsil Bacheli District South Bastar Dantewada), having no legal title, leasehold or rights recognized under the Forest Rights Act. Regardless of their status as encroachers, the State Revenue Authorities evaluated the structural value of the removed dwellings purely on humanitarian grounds. A total compensation amount of Rs.34,20,493/- was assessed to be disbursed by Respondent No. 6/NMDC, out of which four land oustees have already accepted payment. He further submits that since the petitioners occupied Reserve Forest Land without statutory entitlement, no legal or enforceable right accrues in their favor to demand permanent rehabilitation, resettlement or

alternative land allocation. The steps taken by the State authorities under Section 152 of the BNSS, Section 65 of the Act, 2005 and the relevant provisions of the Indian Forest Act are lawful, non-arbitrary and executed to safeguard public safety. He lastly submits that the State authorities have acted well within the parameters of law and public interest, therefore, the Petition is liable to be dismissed in limine.

6. Ms. Naushina Afrin Ali, learned Senior Counsel assisted by Mr. Topilal Bareth, Counsel for respondent No.6 (NMDC Ltd.), submits that Respondent No. 6 does not challenge the evacuation undertaken by the administration for public safety following technical recommendations from the Experts of IIT Bombay regarding Tailing Dam No. 1. Indeed, NMDC Ltd. had repeatedly requested the District Administration to evacuate and relocate persons residing in the vulnerable downstream area, posted warning notices, deposited the revised compensation of Rs.34,20,493/-, provided temporary shelter and food and arranged rented accommodation for the displaced families on humanitarian grounds. She submits that the core grievance of Respondent No. 6 is directed against the subsequent orders dated 18.06.2026 and 19.06.2026 passed by the Sub-Divisional Magistrate (SDM), Bade Bacheli, directing the allotment/requisition of five Type-I residential quarters belonging to NMDC Ltd., Central Public Sector Enterprise, to the evicted persons. Learned Senior Counsel contends that Section 152 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) provides

statutory jurisdiction solely for conditional orders removing public nuisance or danger. It does not empower an Executive Magistrate to requisition, administer or allot third-party private/corporate property for permanent or semi-permanent residential rehabilitation. She further submits that requisition under Section 65 of the Act, 2005 is permissible only when premises are demonstrably needed for "rescue operations" by a written order of requisition, accompanied by compensation under Section 66. The SDM cannot convert a temporary rescue power into a general power of residential allotment. Learned Senior Counsel submits that the State has taken mutually destructive and contradictory stands claiming on one hand that no disaster existed to attract Section 65 during eviction, while simultaneously invoking Section 65 to justify the appropriation of premises of the NMDC Ltd. No written delegation of power under Section 69 of the Act, 2005 from the District Authority to the SDM has been produced or established on record. In the absence of express statutory delegation, the SDM lacked inherent jurisdiction to act under the Act, 2005. Learned Senior Counsel submits that during the pendency of these proceedings, the petitioners and their family members forcibly broke open the locks and unlawfully entered the NMDC quarters. She submits that an act of forcible trespass cannot confer a legal right to possession nor can it cure the jurisdictional defect in the impugned orders dated 18.06.2026 and 19.06.2026.

7. Heard learned counsel appearing for the respective parties and also perused the material available on record with utmost circumspection.

8. At the outset, it is essential to bear in mind the paramount duty of the State to safeguard human life. There can be no dispute with the settled proposition that the State is under an obligation to protect human life. In situations of adversity, the administrative authorities are required to take prompt and effective measures in accordance with law to avert impending disaster. The State authorities cannot be expected to remain inactive when public safety is threatened, irrespective of pending disputes over land title or possession.

9. Turning to the factual matrix, the main grievance raised by the petitioners pertains to their eviction and the subsequent demolition of their structures executed pursuant to the order dated 04.06.2026 passed under Section 152 of BNSS 2023 and the provisions of the Indian Forest Act. While the petitioners claim long-standing occupancy over the land in question and invoke statutory protections under the Forest Rights Act, the record shows that the property in dispute forms part of Reserve Forest Land No. 1844 at Village Padapur, Range and Tehsil Bacheli District South Bastar Dantewada. Further, no lease, title or recognized forest right has been granted in favour of the petitioners. It is trite law that unauthorized occupation over Reserve Forest Land, in the absence of a formal title, valid

leasehold or a recognized right under Forest Rights Act, does not confer any vested, indefeasible or legally enforceable right upon the occupants to resist eviction or to demand, as a matter of right, permanent rehabilitation or alternative allotment of land.

10. Furthermore, a perusal of the record shows that the subject proceedings were initiated after serious apprehensions of structural safety of Tailing Dam No. 1 of Respondent No. 6 (NMDC Ltd.). In the backdrop of such serious apprehensions, technical evaluations were conducted by expert Engineers from the Indian Institute of Technology (IIT) Bombay. The report revealed that there was active seepage of water mixed with fine sludge at the dam base, posing an imminent risk of catastrophic failure and loss of human life during the monsoon season. Therefore, it became incumbent upon the State to order immediate evacuation based on the technical assessment. In response to such immediate safety concerns, proceedings were initiated under Section 152 of BNSS 2023 and notices were issued and accordingly impugned order dated 04.06.2026 was passed.

11. Section 152 has been enacted to empower the competent authority to take preventive measures in cases involving public nuisance or danger to public safety. When facing an emergency that poses an imminent threat to human safety, action taken under Section 152 of the BNSS 2023 to neutralize public hazards and direct immediate evacuation constitutes a lawful exercise of

statutory authority, free from arbitrariness and illegality. Public safety and the preservation of human life must override individual claims of unapproved occupancy. Even otherwise, the State Administration and Respondent No. 6 have not acted with callousness or disregard for basic human dignity. A sum of Rs.34,20,493/- has already been assessed towards compensation for the demolished dwellings, part of which has already been accepted by affected occupants.

12. Admittedly, the State has invoked Section 65 of the Act, 2005 to provide temporary shelter, basic amenities, and emergency accommodation to the evicted families during the monsoon period. Section 65(1) of the Act, 2005 empowers the competent authority to use any resource, premises or vehicle for the purpose of prompt response, rescue operations and purposes of transport of resources in connection with rescue, rehabilitation and reconstruction. Sub section (2) also provides that whenever any resource, premises or vehicle is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such resource, premises or vehicle is required for any of the purposes mentioned in that sub-section. Thus, the requisition of such property has to be within the contours of the statutory provision. In the present case, the accommodation arranged in the NMDC quarters is only temporary till the end of the monsoon. Such temporary arrangement granted solely to manage the immediate monsoon risk, does not grant them any permanent legal right or ownership over residential quarters of

NMDC Ltd. (Respondent No. 6). The petitioners remain bound to abide by lawful administrative arrangements made for temporary relief without asserting any rights of adverse possession or permanent tenancy over NMDC quarters.

13. However, this Court cannot lose sight of the essential legal principle that a temporary requisition requires a valid order passed by the competent authority or a duly authorised officer. A bare perusal of the material on record is insufficient to conclusively establish compliance with Section 65 of the Act, 2005. Nevertheless, taking into consideration the peculiar circumstances of this case, this Court deems it premature to adjudicate upon the legal validity of the acquisition orders on merits at this stage. It is also clarified that nothing in this order shall be construed as affirming either the legal validity of the requisition or the competence of the issuing authority. All questions regarding the jurisdiction and authority under Sections 65, 66 {payment of compensation} and 69 {Delegation of powers} of the Act, 2005 are left open to be agitated in appropriate legal proceedings, if occasion so arises.

14. Furthermore, on an earlier date of hearing i.e. 17.7.2026, this Court had called for a report from the District Collector, Dantewada and the Sub Divisional Officer, Badebacheli, regarding the allegations that the petitioner(s) had forcibly broken and opened the locks of the NMDC quarters. The report dated 27.07.2026 submitted by the concerned authorities shows that the

concerned petitioners entered and occupied the premises in pursuance of the allotment orders dated 18.6.2026 and 19.6.2026 respectively, valid till 15.10.2026. In light of these administrative orders, it would be unjustified to record a finding of illegal trespass against the petitioners.

15. In view of the foregoing discussion and having regard to the material placed on record, this Court is of the considered opinion that the decision to evacuate persons from an area facing an imminent threat to life cannot, by itself, be characterised as arbitrary or unreasonable. This Court finds no jurisdictional error or illegality either in the impugned eviction order dated 04.06.2026 or the consequential demolition memo dated 13.06.2026, warranting interference by this Court under Article 226 of the Constitution of India.

16. Consequently, the Writ Petition, being devoid of merit, is liable to be dismissed.

17. Before parting with the matter, keeping in view the prevailing monsoon season and the vulnerable condition of the displaced occupants, particularly pregnant women, lactating mothers, elderly persons and minor children, the State Authorities are directed to ensure compliance with the following directions :

> *(i) Continuous medical assistance, essential health monitoring and adequate nutritional support shall be extended to all pregnant women and occupants presently housed in temporary shelters;*

(ii) The displaced families shall not be dispossessed from their humanitarian accommodations till the conclusion of the ongoing monsoon season i.e. till 15.10.2026, however, after the expiry of the said period, they shall vacate the accommodation of NMDC;

(iii) The remaining balance of the compensation assessed by the Revenue Authorities shall be disbursed to the remaining eligible oustees expeditiously upon due verification of their identity.

18. With the aforesaid directions, the Writ Petition is hereby **dismissed.**

Sd/-

(Amitendra Kishore Prasad)
Judge

Shyna Ajay