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VISHAKHA BEOHAR Digitally signed by VISHAKHA BEOHAR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5557 of 2026

1 - Aklim Ansari S/o Phakira Aged About 70 Years R/o Village- Silphili, Tahsil- Pratappur, Distt.- Surajpur (C.G.)

--- **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through - The Department Of Revenue, Mahanadi Bhawan, New Raipur, Distt.- Raipur (C.G.)

2 - The Secretary, Department Of Forest Mahanadi Bhawan, New Raipur, Distt.- Raipur (C.G.)

3 - The Commissioner Surguja Division, Ambikapur, Distt.- Surguja (C.G.)

4 - The Collector - Surajpur / Chairman Of The District Level Van Adhikar Committee - Surajpur, Distt.- Surajpur (C.G.)

5 - Assistant Commissioner / Secretary District Level Van Adhikar Samiti - Surajpur, Distt.- Surajpur (C.G.)

6 - The Sub- Divisional Officer (Revenue) / Chairman Of Divisional

Level Van Adhikar Samiti Pratappur Distt.- Surajpur (C.G.)

7 - Tahsildar Pratappur, Distt.- Surajpur (C.G.)

--- Respondent(s)

WPC No. 5562 of 2026

1 - Samim Ansari S/o Mansur Aged About 40 Years R/o Village Silphili, Tahsil Pratappur Distt Surajpur C. G.

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Department Of Revenue, Mahanadi Bhawan New Raipur, Distt Raipur C. G.

2 - The Secretary Department Of Forest Mahanadi Bhawan New Raipur Distt Raipur C. G.

3 - The Commissioner Surguja Division, Ambikapur Distt Surguja C. G.

4 - The Collector Surajpur / Chairman Of The District Level Van Adhikar Committee Surajpur, Distt Surajpur C. G.

5 - Assistant Commissioner / Secretary District Level Van Adhikar Samiti Surajpur, Distt Surajpur C. G.

6 - The Sub - Divisional Officer (Revenue) Chairman Of Divisional Level Van Adhikar Samiti Pratappur Distt Surguja C. G.

7 - Tahsildar Pratappur, Distt Surajpur C. G.

... Respondents

(Cause-title taken from the Case Information System)

For Petitioners :- Mr. A.N. Pandey, Advocate

For State :- Mr. Priyank Rathi, G.A.

SB- Hon'ble Shri Justice Amitendra Kishore Prasad

Order On Board

04.11.2026

1. Since both the petitions involve identical and similar issues and arise out of the same set of facts, they are being decided by this common order.

2. For the sake of convenience, W.P.(C) No. 5557 of 2026 is taken up as the lead case, and the facts and reliefs are being referred to from the said petition.

3. By way of the present petition, the petitioner has challenged the order dated 08.07.2026 passed by respondent No.4, whereby the petitioner's application for grant of Van Adhikar Patta in respect of the subject land has been rejected. The petitioner has also assailed the consequential proceedings initiated by respondent No.7, Tahsildar, Pratappur, for eviction from the subject land and demolition of the residential house constructed thereon.

4. Brief facts of the case are that the petitioner claims to have been in possession of the subject land for the last about 60 years and has constructed a residential house thereon, where the petitioner is residing with his family. It is contended that the petitioner has no other land or residential house. Accordingly, an application

seeking grant of Van Adhikar Patta was submitted before the Collector. However, the said application was rejected vide order dated 08.07.2026 (Annexure P/1), without conducting any enquiry regarding the petitioner's possession and without affording him an opportunity of hearing. It is further contended that the authorities failed to consider the Panchnama prepared by the concerned Patwari and the Gram Panchayat, recording the petitioner's possession over the subject land. Being aggrieved by the order dated 08.07.2026, the petitioner preferred an appeal before the Commissioner, Surguja Division, Ambikapur. However, the said appeal was dismissed vide order dated 15.10.2026, on the ground that no provision for appeal against rejection of an application for grant of Van Adhikar Patta is available. It is further contended that pursuant to the order dated 08.07.2026, respondent No.7, Tahsildar, Pratappur, initiated proceedings for eviction of the petitioner and issued a notice dated 25.09.2026, directing the petitioner to vacate the subject land and residential house. The petitioner apprehends that, if evicted and his residential house is demolished, he would suffer irreparable loss and injury. Hence, the present petition.

5. Following reliefs have been prayed:-

> *“10.1 In view of the aforesaid circumstances the petitioner respectfully prays for the following reliefs:10.1 That, this Hon'ble court may kindly be*

pleased to set aside of impugned order dated 8.7.2026 ANNEXURE P/1 issued by the respondent no.4.

10.2 That, this Hon'ble court may kindly be please to direct the respondent no. 4 to re-consider the case of the petitioner for grant of Van Adhikar Patta of the subject land filed by the petitioner as per his entitlement.

10.3 That, any other relief or reliefs may also be granted to the petitioner which this Hon'ble court deems fit and proper in the facts and circumstances of the case."

6. Learned counsel for the petitioner submits that the impugned order dated 08.07.2026 passed by respondent No.4 is illegal, arbitrary and contrary to the material available on record. It is contended that the petitioner has been in possession of the subject land for a long period and has constructed a residential house thereon, where he is residing with his family. The petitioner is a landless person and claims to be entitled to grant of Van Adhikar Patta; however, the Collector rejected his application without properly examining his entitlement. Learned counsel further submits that the impugned order has been passed without affording any opportunity of hearing to the petitioner and without conducting an enquiry into his possession and eligibility for grant of patta. It is also contended that the Panchnama prepared by the concerned Patwari and the Gram Panchayat, recording the petitioner's possession over the subject land, has not been

considered by the competent authority. Learned counsel lastly submits that pursuant to rejection of the petitioner's application, respondent No.7, Tahsildar, Pratappur, has initiated eviction proceedings and issued a notice dated 25.09.2026, directing the petitioner to vacate the subject land and residential house. It is contended that the petitioner has been residing there with his family for several years and that his dispossession from the subject land and demolition of his residential house would cause irreparable loss and injury. Accordingly, learned counsel prays that the impugned orders be set aside and appropriate relief be granted to the petitioner.

7. Per contra, learned State counsel submits that the petitioners are encroachers over the forest land and have failed to establish any legal or statutory right to claim grant of Van Adhikar Patta. It is contended that mere long-standing possession over the subject land or construction of a residential house thereon does not, by itself, confer any right to obtain such patta. Learned State counsel further submits that the petitioners have not established their eligibility in accordance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. It is further submitted that an eviction notice has been issued to the petitioners in accordance with law and that the Act of 2006 provides a complete procedure for recognition and vesting of forest rights, which the petitioners are required to pursue before the competent authorities constituted

under the said Act. Learned State counsel submits that the petitioners ought to avail the remedy available under the statutory framework instead of directly invoking the writ jurisdiction of this Court. Upon perusal of the orders passed by the Collector as well as the Commissioner, it appears that the petitioners have not availed the remedy available to them under the applicable law. Accordingly, learned State counsel submits that no illegality or jurisdictional error warranting interference under Article 226 of the Constitution of India is made out and prays for dismissal of the writ petition.

8. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court finds that the petitioners have primarily based their claim upon their alleged long-standing possession over the subject land and the construction of residential houses thereon. However, mere long-standing possession over Government forest land, even if accompanied by construction of a residential house, does not, by itself, confer any ownership or leasehold right upon the occupants. No person can claim an indefeasible right to occupy Government forest land merely on the ground of prolonged possession. At the same time, the claim of the petitioners for recognition of forest rights, if any, is required to be examined in accordance with the statutory mechanism provided under the Scheduled Tribes and Other Traditional Forest Dwellers

(Recognition of Forest Rights) Act, 2006 (hereinafter referred to as 'the Act, 2006') and the Rules framed thereunder.

9. The Act, 2006, provides a specific procedure for recognition and vesting of forest rights in eligible forest-dwelling Scheduled Tribes and other traditional forest dwellers. Under the statutory scheme, the Gram Sabha is the authority competent to initiate the process of determining the nature and extent of individual or community forest rights. The claims are thereafter required to be examined by the Sub-Divisional Level Committee and the District Level Committee in accordance with the procedure prescribed under the Act and the Rules. Therefore, a claim for grant of Van Adhikar Patta cannot be considered dehors the aforesaid statutory mechanism.

10. It is also pertinent to observe that the Panchnama prepared by the concerned Patwari or the Gram Panchayat, even if it records the possession of the petitioners over the subject land, cannot, by itself, be treated as conclusive proof of their entitlement to forest rights. Such documents may, however, be placed before the competent authorities for consideration along with other relevant documents and evidence in support of their claims. The petitioners would be required to establish their eligibility and satisfy the conditions prescribed under the Act, 2006. Their claim cannot be accepted merely on the basis of their alleged possession or the fact that they are landless persons.

11. This Court is also conscious of the submission made by learned State counsel that the subject land forms part of Government forest land and that the petitioners are unauthorised occupants thereof. It is settled that no person can be permitted to encroach upon forest land or raise any construction thereon contrary to law. However, the State, being a welfare State, is equally required to ensure that any claim falling within the ambit of the Act, 2006, is considered by the competent authorities by following the procedure prescribed therein. The protection available under the said Act cannot be denied merely on the basis of an allegation of encroachment, without examining the claim in accordance with the statutory provisions.

12. It further appears from the material placed on record that the petitioners have not availed the complete statutory procedure available under the Act, 2006, before the authorities concerned. The mere rejection of their applications by the Collector and dismissal of their appeals by the Commissioner would not dispense with the requirement of approaching the authorities specifically empowered under the Act, 2006, for determination of forest rights. Consequently, this Court is of the view that the petitioners ought to first pursue their claims before the competent authorities in the manner prescribed under the Act, 2006 and the Rules framed thereunder.

13. The Hon'ble Supreme Court in the case of **Ahmedabad**

Municipal Corporation Vs. Nawab Khan Gulab Khan and Ors [(1997) 11 SCC 121], has observed the constitutional duty of the State in cases involving encroachment. The relevant portion of the afore-cited judgment is reproduced hereunder:-

> ***"13.****...It would, therefore, be clear that though no person has a right to encroach and erect structures or otherwise on footpath, pavement or public streets or any other place reserved or earmarked for a public purpose, the State has the Constitutional duty to provide adequate facilities and opportunities by distributing its wealth and resources for settlement of life and erection of shelter over their heads to make the right to life meaningful, effective and fruitful…"*

14. Further, the Hon'ble Supreme Court in the case of **In Re: T.N. Godavarman Thirumulpad Vs. Union of India and Ors. (MANU/SC/0762/2025, 2025 SCC OnLine SC 1227)**, while dealing with issue of right to shelter referred the case of **Chameli Singh and Ors. v. State of U.P. and Anr. [(1996) 2 SCC 549]**, in which it has been held as under:-

> *"**8**....Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc…"*

15. In the aforesaid circumstances, without expressing any opinion on the merits of the petitioners' claims or their actual entitlement to grant of Van Adhikar Patta, the petitioners are directed to approach the competent authorities under the Act, 2006, in the manner prescribed under the Rules, 2007, within a period of 30 days from the date of receipt of a copy of this order. In the event such claims are submitted, the competent authorities shall consider and process the same in accordance with the provisions of the Act, 2006 and the Rules framed thereunder, after affording due opportunity of hearing to the petitioners and considering the relevant documents and evidence produced by them. The authorities shall pass appropriate orders by a reasoned and speaking order, strictly in accordance with law.

16. It is made clear that this Court has not expressed any opinion regarding the eligibility of the petitioners for grant of Van Adhikar Patta, and the competent authorities shall independently examine their claims without being influenced by any observation made herein. The petitioners shall also cooperate with the proceedings and furnish all relevant documents and particulars as may be required by the competent authorities.

17. Having regard to the fact that the petitioners are stated to be residing with their families on the subject land and that eviction proceedings have already been initiated, it is directed that no coercive steps for their eviction or demolition of their residential

houses shall be taken until their claims are considered and decided by the competent authorities in accordance with law. This protection shall not be construed as conferring any right, title or interest upon the petitioners over the subject land and shall remain subject to the outcome of the proceedings before the competent authorities.

18. With the aforesaid observations and directions, both the writ petitions stand **disposed of**.

19. There shall be no order as to costs.

sd/-

(Amitendra Kishore Prasad)
Judge

Vishakha