



HIGH COURT OF CHHATTISGARH AT BILASPUR

Review Petition No.72 of 2023

1. Son Sai S/o Late Mahavir Aged About 65 Years R/o Village Sardi (Junapara) District - Koriya Baikunthpur Chhattisgarh. (Res. No. 5)

--- **Petitioner**

Versus

1. Manbasiya W/ogorelal Aged About 65 Years R/o Village Sardi Tahsil, Baikunthpur, District - Koriya Baikunthpur Chhattisgarh. (Pet. No. 1)
2. Arun Kumar Yadav S/o Late Mangal Sai Aged About 44 Years R/o Village Sardi Tahsil Baikunthpur, District - Koriya Baikunthpur Chhattisgarh. (Pet. No. 2)
3. State of Chhattisgarh Through Secretary, Department of Revenue and Disaster Management, Mantralaya, New Raipur, District Raipur Chhattisgarh. (Res. No. 1)
4. The Collector Baikunthpur, District Koriya Baikunthpur Chhattisgarh (Res. No. 2)
5. Sub Divisional Officer (Revenue), Baikunthpur, District Koriya Baikunthpur Chhattisgarh. (Res No. 3)
6. Tahsildar Baikunthpur, District Koriya Baikunthpur Chhattisgarh. (Res No. 4)

---- **Respondents**

For Petitioner	:	Shri Mazid Ali, Advocate.
For State	:	Shri Rahul Jha, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

12.05.2023

1. The present review petition has been filed seeking for review of the order dated 22.03.2023 passed in WPC No.1406 of 2023.
2. For ready reference, it is necessary to quote the operative part of the order dated 22.03.2023 which reads as under:

"4. True it is that this court has not directed the respondent authorities to initiate any proceeding against the petitioners in particular. This court in the said writ petition had only permitted the petitioners to approach the concerned authorities by way of a suitable representation. The authorities were in turn directed to take appropriate steps ensuring that the order passed by the local administration earlier in respect of removal of illegal encroachment be acted upon. Now if at all if the petitioners are aggrieved of the impugned notice at this juncture, the petitioners have all the



right to appear before the Tehsildar and to submit their reply. The respondent No.4 thereafter shall consider the said reply on its own merits in accordance with law and only thereafter to take appropriate steps in accordance with law.

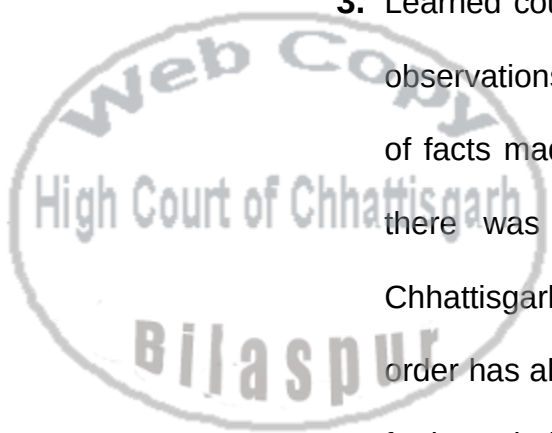
5. The petitioners would also be permitted to apprise the respondent No.4 in respect of their right over the said property or any other right that they have over the said land.

6. Let the petitioners file a reply/objection before the respondent No.4 within a period of 15 days from today and the respondent No.4 in turn shall consider the same on its own merits in accordance with law and pass appropriate orders with a copy duly served to the petitioners.

7. Till a decision is taken by the Tehsildar, the respondents shall not initiate any co-ercive steps against the petitioners from being evicted from the said land.”

- 3.** Learned counsel for the review petitioner seeking review of the aforesaid observations states that it is a case where there were material suppression of facts made by the petitioners in WPC No.1406 of 2023, inasmuch as, there was infact a proceedings drawn under Section 248 of the Chhattisgarh Land Revenue Code already stood concluded. The said order has also been affirmed in the appellate stage and there has been no further challenge to the same and which has since attained finality. Moreover, the applicant herein-Son Sai S/o Mahavir who was a party before the proceedings under Section 248 had subsequently filed a writ petition i.e. WPC No.5090 of 2021 which stood disposed of on 20.12.2021. This court in very categorical terms in the said case had made the following observations:

“2. Learned counsel for the petitioner submits that as a result of the illegal encroachment the pathway which is an access to the property of the petitioner had got blocked. Further counsel for the petitioner submits that he has already approached the Authorities and local administration for removal of the encroachment and there are orders passed by



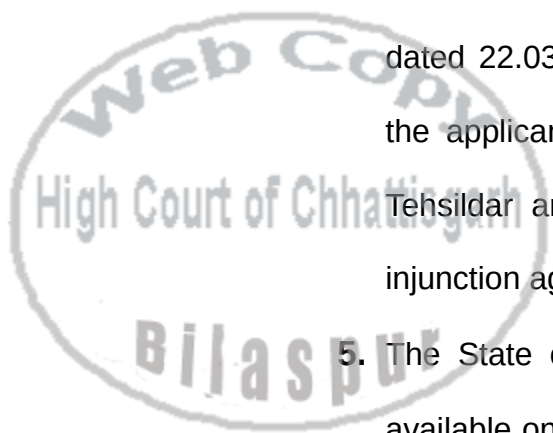


the District Administration for the removal of the encroachment which till date has not been acted upon.

3. Given the said submissions by the counsel for the petitioner today, the writ petition at this juncture stands disposed of permitting the petitioner to approach the respondent no.2 to 4 in respect of his grievance and respondent no.2 to 4 are expected to take an appropriate decision so far as the grievance of the petitioner is concerned and also ensure that the orders passed by the respondent no.2 to 4 in respect of the removal of illegal encroachment is kept in mind while redressing the grievance of the petitioner at the earliest.”

4. The grievance of the petitioner now is that in the teeth of the proceedings that have gone in the past and where the petitioners in WPC No.1406 of 2023 were unsuccessful, the Tehsildar in the garb of the order of this court dated 22.03.2023 is not proceeding further with the matter. According to the applicant herein, the petitioners in WPC No.1406 of 2023 and the Tehsildar are treating the order of this court dated 22.03.2023 as an injunction against them from proceeding further.

5. The State counsel at this juncture submits that there is no document available on record to show that there has been an inaction on the part of the respondent authorities, particularly so far as the Tehsildar is concerned. He further submits that there is also no averment as to whether the petitioners in WPC No.1406 of 2023 have placed any reply or objection before the Tehsildar within 15 days time that was granted to them on 22.03.2023. Moreover, the said order of the writ court is only that of 22.03.2023 and therefore it cannot be said that there has been an inordinate delay or an inordinate inaction on the part of the officers of the department in proceeding further with the matter.





6. On a query to the applicant herein he was also not in a position to state as to whether the petitioners in WPC No.1406 of 2023 have filed any objection or not before the Tehsildar.
7. In the given facts and circumstances of the case, this court does not find any strong case made out by the applicant herein calling for an interference with the order dated 22.03.2023 in WPC No.1406 of 2023.
8. However, it is made clear that since this court had granted only 15 days time for the petitioners in that writ petition to submit their objection, if they have raised an objection, the Tehsildar is incumbent to decide that objection and take appropriate steps in accordance with law particularly keeping in view the order of the writ court in WPC No.5090 of 2021 dated 20.12.2021. If at all if the petitioners Manbasiya and Arun Kumar Yadav have not raised any objection, the order passed in WPC No.1406 of 2023 dated 22.03.2023 would automatically loose its efficacy and even under that circumstances the officers would be incumbent to comply with the order passed by the High Court in WPC No.5090 of 2021, disposed of on 20.12.2021.
9. With the aforesaid observations and direction, the review petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge