
(2022) 07 CHH CK 0008
In the Chhattisgarh High Court
Case No : Writ Appeal No. 334 Of 2022

Goutam Bhuarya

APPELLANT

Vs

State Of Chhattisgarh Through Secretary

RESPONDENT

Date of Decision : 06-07-2022

Acts Referred:

Constitution Of India, 1950 — Article 226
Chhattisgarh Land Revenue Code, 1959 — Section 248

Citation : (2022) 07 CHH CK 0008

Hon'ble Judges : Arup Kumar Goswami, CJ; Prateem Sahu , J

Bench : Division Bench

Advocate : P. Chetan Kumar, Meena Shastri

Judgement

1. Heard Mr. P. Chetan Kumar, learned counsel for the appellant.

Also heard Ms. Meena Shastri, learned Additional Advocate General, appearing for the respondents.

2. This appeal is presented against an order dated 14.06.2022 passed in WP(C) No. 2557 of 2022. By the said order a number of analogous writ petitions were disposed of.

3. Perusal of the order goes to show that on the submission made by the learned counsel for the petitioners therein that order, as was passed in WP(C) No.3252 of 2016 dated 23.12.2016, may be passed in their petitions, the learned Single Judge disposed of the writ petitions including the writ petition out of which this appeal arises in terms of order dated 23.12.2016 passed in WP(C) No. 3252 of 2016.

4. Evidently, the order is passed on the submission of the appellant.

5. The order dated 23.12.2016, as quoted by the learned Single Judge, reads as follows :

"4. Nothing has been placed on record to substantiate the plea that the land is

not revenue paying land but belongs to the Nagar Panchayat. If the land is revenue land which has been encroached by the petitioner, the Tahsildar has jurisdiction to initiate proceeding under Section 248 of the Code, 1959.

5. The petitioner has not demonstrated about his right, title or interest over the property except challenging the authority of the Tahsildar. Considering the fact that the petitioner is not entitled to occupy land, indulgence under Article 226 of the Constitution of India is not warranted. Consequently, the writ is dismissed, however, the petitioner is allowed on month's time to make alternative arrangement. The respondents shall allow the petitioner to remain in occupation for one month within which time the petitioner shall remove the encroachment, failing which the respondents may execute the order on or after 31.01.2017."

6. Operative portion of the order impugned reads as follows :

"7. Respondents are directed to ensure that the Petitioners would not be forcefully evicted for a period of 30 days' time starting from today. Meanwhile, the Petitioners shall ensure removal of their encroachment from the place which is occupied by them as of now and make alternative arrangement for themselves, failing which the Respondents shall have the liberty to get the eviction warrant executed beyond the period of 31.7.2022. Petitioners meanwhile would also be at liberty to approach the State Authorities seeking for alternative accommodation/arrangement in the capacity of landless/homeless person, which, if made by the Petitioners, shall be considered on priority basis by the Authorities."

7. Though not pleaded in the appeal, Mr. Chetan Kumar submits that no authority was given to the counsel by the appellant to make such concession when the appellant had questioned the legality of the order dated 19.05.2022 passed by the Tahsildar directing eviction of the appellant.

8. At this juncture, Mr. Chetan Kumar submits that he may be permitted to withdraw this appeal with liberty to file review application before the learned Single Judge.

9. Prayer is not opposed by Ms. Shastri.

10. On due consideration, we permit the appellant to withdraw the appeal with liberty, as prayed for.