
(2020) 02 CHH CK 0001
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 446 Of 2020

Padumkunwar Patel

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 03-02-2020

Acts Referred:

Citation : (2020) 02 CHH CK 0001

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : A.K. Prasad, P. Acharya

Final Decision : Disposed Of

Judgement

1. The present writ petition has been filed challenging Annexure P-1, dated 21.1.2020, which has been passed by the respondent no.4 Tahsildar whereby the paddy belonging to the petitioner has been stopped from being purchased and appropriate instructions have been issued in this regard to respondent no.6 society.

2. Contention of the learned counsel for the petitioner is that the petitioner and the respondent no.7 are sister and brother in relation. The petitioner as well as the respondent no.7 have a joint ownership and possession over certain piece of land situated at Village, Dabhra and Nawapara in District Janjgir-Champa. According to the petitioner, the petitioner has an equal share on the property and she also has got the registration done with the respondent no.6 society only to the extent of the share that belongs to her and not on any portion of share which falls to respondent no.7. Now, according to the petitioner, some complaint was lodged by respondent no.7 and based upon which the respondent no.4 Tahsildar has issued Annexure P-1 and has instructed the respondent no.6 society not to purchase any paddy from the petitioner.

3. Learned counsel for the petitioner further submits that there is no dispute so far as the property being jointly owned and possessed by the petitioner and the

respondent no.7 and the petitioner has got registration only to the extent of the land which falls under the share of the petitioner. That, there is also a duly verified registration granted to the petitioner thereby the respondent authorities could not have stopped the sale of paddy by the petitioner to respondent no.6 society. He next submits that, if at all, if there is a dispute between the brother and sister, the brother should have got an appropriate order from the competent court of law based upon which the respondent no.4/Tahsildar or any other authority of the State should have passed an appropriate order. As long as there is no order from the competent court of law, the petitioner have the right to sell the paddy cultivated on the land which belongs to her and for which there is also a proper registration provided by respondent no.6 society. According to the petitioner, she has in the past already sold some paddy to the respondent no.6 society under the same registration.

4. Learned State Counsel, on instructions, submits that there was an objection raised by the respondent no.7 and since there seems to be a dispute between the joint owners of the property, the respondent no.4 Tahsildar has passed an order for the respondent no.6 society not to purchase paddy from the petitioner. According to the learned State Counsel, since there is a dispute, the respondent no.4 Tahsildar in order to avoid any further complications has stayed the purchase of paddy subject to the petitioner resolving the dispute inter se between the petitioner and the respondent no.7.

5. Having heard the contentions put forth on either side and on perusal of record, what cannot be lost sight of is the fact that the petitioner has a registration with the respondent no.6 society. The petitioner in the past also sold certain quantity of paddy to respondent no.6 society. Further undisputed fact also is that the property is jointly owned and possessed by the petitioner and the respondent no.7. The registration granted to the petitioner is also only to the extent of the share which falls to the petitioner.

6. Given the said facts, in case, if the respondent no.7 has got any dispute so far as the share which falls upon him, the only remedy or recourse available to him is to approach the competent court of law and get an appropriate order to that effect. Based upon the order of the competent court of law he could have approached the respondent no.4/Tahsildar. In the absence of any order from the competent court of law so far as the share which falls upon respondent no.7 and also there being no order from any competent court of law, of the petitioner cultivating that portion of land which falls into the share of the respondent no.7; the registration which has been granted by the respondent no.6 society on due verification, establishes that the registration was to the extent of the share which falls to the petitioner. This Court therefore is of the opinion that the impugned order of respondent no.4 Tahsildar so far as staying of the purchase of paddy and instructions in this regard issued to respondent no.6 society does not seem to be proper, legal or justified.

7. As there is only few days left for purchase of paddy and, in the event, if the

petitioner is not able to sell paddy, it may cause irreparable loss to her. Therefore, respondents no.4 and 6 are directed to ensure that, let the petitioner's paddy be purchased on the basis of registration provided to the extent shown in the registration, subject to any order which the respondent no.7 may obtain from any competent court of law in this regard. Let appropriate instructions be issued in this regard by the respondent no.3/Sub Divisional Officer as well.

8. The writ petition accordingly stands disposed of.