



2026:CGHC:9962-DB



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPPIL No. 25 of 2023**

1. Smt. Asha Dubey W/o Shri Sanjay Dubey Aged About 40 Years
President Jay Vihan Sahakari Samiti, Dharsiva, R/o House No.
395, Ward No. 11, Sai Sadan Colony, Dharsiva, District Raipur
Chhattisgarh
2. Smt. Gayatri Nayak W/o Shri Dinesh Nayak Aged About 53 Years
Secretary, Jay Vihan Sahakari Samiti, Dharsiva, R/o House No.
247, Ward No. 11, Sai Sadan Colony, Dharsiva, District Raipur
Chhattisgarh
3. Smt. Dhaneshwari Verma W/o Late Netram Aged About 46 Years
Member, Jay Vihan Sahakari Samiti, Dharsiva, R/o House No.
177, Ward No. 11, Sai Sadan Colony, Dharsiva, District Raipur
Chhattisgarh
4. Smt. Shashikala Nayak W/o Shri Kamal Narayan Aged About 47
Years Member, Jay Vihan Sahakari Samiti, Dharsiva, R/o Ward
No. 11, Sai Sadan Colony, Dharsiva, District Raipur Chhattisgarh
5. Smt. Sandhya Pandey W/o Shri Rajesh Pandey Aged About 57
Years Member, Jay Vihan Sahakari Samiti, Dharsiva, R/o House



No. 257, Ward No. 11, Sai Sadan Colony, Dharsiva, District
Raipur Chhattisgarh

6. R. K. Pandey S/o Late Shivrath Prasad Pandey Aged About 63
Years President, Brahman Samaj Dharsiva, R/o House No. 257,
Ward No. 11, Sai Sadan Colony, Dharsiva, District Raipur
Chhattisgarh

... Petitioner(s)

versus

1. State of Chhattisgarh Through The Secretary, Department of
General Administration, Mantralaya, Mahanadi Bhawan, Atal
Nagar, Naya Raipur, District Raipur Chhattisgarh
2. Collector Raipur, District Raipur Chhattisgarh
3. The Sub Divisional Officer (R) Raipur, District Raipur Chhattisgarh
4. The Tahsildar Dharsiva, District Raipur Chhattisgarh
5. The Superintendent Of Police Raipur, District Raipur Chhattisgarh
6. The Incharge Police Station Dharsiva Raipur, District Raipur
Chhattisgarh
7. Gram Pranchayat Dharsiva Through Sarpanch Gram Panchayat
Dharsiva, District Raipur Chhattisgarh
8. Mulim Jamat Through Sadar/ Mutwalli, Haji Abdul Jaleel Khan S/o
Late Akhtiyar Khan, Muslim Community Dharsiva, District Raipur
Chhattisgarh

...Respondent(s)

(Cause-title taken from Case Information System)



For Petitioners	:	Mr. Hanuman Prasad Agrawal, Advocate.
For Respondents/State	:	Mr. Praveen Das, Additional Advocate General.
For Respondent No. 8	:	Mr. Pravin Kumar Tulsyan, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

26.02.2026

1. Heard Mr. Hanuman Prasad Agrawal, learned counsel for the petitioners. Also heard Mr. Praveen Das, learned Additional Advocate General, appearing for the State and Mr. Pravin Kumar Tulsyan, learned counsel, appearing for respondent No. 8.
2. The present writ petition styled as 'Public Interest Litigation' has been filed by the petitioners with the following prayers:

"(i) That, this Hon'ble Court may kindly be pleased to call the entire records pertaining to lands bearing Khasra Nos. 249/1 & 249/2 as well as Khasra Nos. 26 & 27.

(ii) That, this Hon'ble Court may kindly be pleased to direct the respondent authorities not to allot the government lands to Muslim Community meanwhile the Hindus are celebrating/organizing the festivals and the childrens are using as playgrounds and the land is Go-char land where animals are also grazing.



(iii) That, this Hon'ble Court may kindly be pleased to direct the respondents to remove the fencing wire as well as newly constructed main gate from the government land bearing Khasra Nos. 249/1 & 249/2.

(iv) That, this Hon'ble Court may kindly be pleased to secure the right of worship of Hindu peoples meanwhile there is no other land nearby available for celebrating Hindu festivals.

(v) That, this Hon'ble Court may kindly be pleased to grant any other relief which may deem fit in the facts and circumstances of the case."

3. Learned counsel for the petitioners submits that the present Public Interest Litigation has been instituted challenging the alleged illegal encroachment and construction of a boundary wall by way of fencing over Government lands bearing Khasra Nos. 249/1 and 249/2. It is contended that the said lands are recorded as Government lands and are open in nature. According to the petitioners, the respondents have attempted to convert the said lands for the purpose of a Kabristan by erecting fencing and raising construction without any lawful authority. It is further submitted that the lands are situated in front of Sai Sadan Colony and that the residents of the colony and nearby villagers are adversely affected by the proposed establishment of a Kabristan at the said location. The lands, it is stated, have been used for a considerable period for organizing and celebrating Hindu religious and cultural



programmes such as Durga Festival, Holi, Krishna Janmashtami, Navadha Ramayan, Dussehra, and Bhagwan Katha, and are also used as a playground by children of the locality.

4. Learned counsel for the petitioners further contends that approximately one year prior, the Hon'ble Chief Minister visited Village Dharsiva and announced construction of a Kurmi Bhawan on the said Government land. It is alleged that subsequent thereto, members of the Muslim community initiated attempts to encroach upon the lands in question. It is submitted that the Gram Panchayat had earlier allotted three decimals of land, separate from Khasra Nos. 249/1 and 249/2, for the purpose of Kabristan; however, the same has not been utilized to date. It is also stated that the Tahsildar has affixed a notice board declaring the land to be Government land. The petitioners allege that the construction of fencing was undertaken with the assistance of the Mutwalli (respondent No. 8) and that despite several representations made by the villagers to the competent revenue authorities seeking removal of the alleged encroachment, no effective action was taken. It is also alleged that the villagers were threatened with adverse consequences when they approached the authorities.

5. Learned counsel for the petitioners further submits that upon representations made by them, the Tahsildar took cognizance of the matter and granted a stay on construction of the boundary wall by respondent No. 8 on 26.04.2022. Thereafter, applications were moved before the Collector and the Tahsildar seeking allotment of Khasra No.



249/1, admeasuring 1.585 hectares, for Kabristan purposes. The petitioners filed detailed objections to the said application. It is contended that despite the pendency of objections and subsistence of stay orders, Respondent No. 8 proceeded to construct a main gate on the Government land, whereupon the Tahsildar again granted a stay order dated 15.02.2023. The petitioners also submitted an application seeking that Khasra Nos. 249/1 and 249/2 not be allotted for Kabristan purposes. It is further submitted that Respondent No. 8 subsequently sought allotment of additional Government lands bearing Khasra Nos. 26 and 27, admeasuring 0.607 hectares, for the purpose of Jayaratgah, in respect of which proceedings were initiated and a public notice (Istahar) was issued by the Tahsildar, Dharsiva.

6. Learned counsel for the petitioners further stated that the Muslim community has already been allotted approximately 2.5 acres of land for Kabristan purposes situated at Bilaspur Road near the old Police Station, Dharsiva, and that the said land is presently being used with a boundary wall already constructed thereon. Despite availability and use of the said land, further allotment of the present Government lands is being sought. It is contended that Khasra No. 249/2 has never been used as a Kabristan and has remained an open land where members of the Hindu community have been celebrating religious and cultural programmes for a considerable period without interference. It is also submitted that on the basis of a demarcation application moved before the Tahsildar, fencing was erected over Khasra No. 249/2. According to the petitioners, such construction adversely affects the rights of local



residents to use the land for religious, cultural, community, and recreational purposes, and also impacts its use as grazing land (Gochar/grassland).

7. It is further submitted that the Government land in question has long been used for public purposes including religious festivals, children's playground, and grazing of animals, and that conversion of the same for Kabristan purposes would alter its nature and adversely affect established public use. The erection of fencing and boundary structures is stated to have obstructed the right of way and caused inconvenience in organizing public and religious functions. The petitioners assert that Khasra Nos. 249/1 and 249/2 are the only open lands available in the vicinity for such community purposes and that no suitable alternative land exists. It is further submitted that the three decimals earlier allotted for Kabristan are situated in a location surrounded by public offices and residential houses, rendering the same unsuitable, and that in view of the existing 2.5 acres already allotted and in use, further allotment of the disputed lands is unwarranted. On these premises, appropriate directions are sought to restrain the respondents from encroaching upon or altering the nature of the said Government lands.

8. *Per contra*, learned State counsel submits that the present petition alleges inaction on the part of the authorities in respect of the alleged encroachment over Government lands bearing Khasra Nos. 249/1 and 249/2 at Village Dharsiwa, District Raipur. It is acknowledged that



allegations were made against respondent No. 8 and certain members of the Muslim community regarding erection of fencing and construction of a gate. It was also submitted before this Court that the lands are recorded as grazing lands and that certain applications were pending before the Tahsildar regarding preservation of the nature of the lands.

9. Learned State counsel further submits that this Court, taking note of the submissions and observing that no allotment order had been issued in favour of any individual or group, directed the concerned Tahsildar to conduct an inspection within 24 hours to ascertain whether any fencing or gate had been erected over Khasra Nos. 249/1 and 249/2. The Court further directed that if any such structure was found, the same be removed forthwith with police assistance to ensure that no person or group takes over Government land by force and that communal harmony is maintained. Thereafter, on 02.05.2023, it was informed that the alleged encroachment had been removed, and this Court directed filing of an affidavit evidencing compliance.

10. Learned State counsel submits that in compliance with the directions of this Court, the Collector, Raipur, filed a personal affidavit dated 08.05.2023 stating that Khasra No. 249/1 admeasuring 1.585 hectares and Khasra No. 249/2 admeasuring 0.202 hectares are Government lands. Pursuant to the order dated 22.03.2023, an inspection was conducted on 24.03.2023 by the Tahsildar, Dharsiwa, along with the Revenue Inspector, Halka Patwari No. 18, Town Inspector of Police Station Dharsiwa, Village Kotwar, and other officials.



During inspection, it was found that Khasra No. 249/1 was free from encroachment. However, in respect of Khasra No. 249/2, fencing wire and an iron gate had been erected and the land was found in possession of Muslim Samaj (Jama Masjid Dharsiwa). A panchnama was prepared on 24.03.2023 recording these facts. Thereafter, on 25.03.2023, the said fencing wire and iron gate were removed by the authorities in the presence of concerned officials and villagers, and a separate panchnama was prepared evidencing removal of the encroachment.

11. Learned State counsel would submit that the panchnama dated 25.03.2023 clearly establishes that the fencing wire and iron gate have been removed and that, as on date, there is no encroachment by any individual or community over Government lands bearing Khasra Nos. 249/1 and 249/2. It is contended that the State authorities have acted promptly and in strict compliance with the directions issued by this Court, ensuring removal of the alleged encroachment and maintenance of law and order. At present, the lands in question stand free from encroachment.

12. Learned counsel appearing for respondent No. 8 submits that the present petition is not a bona fide Public Interest Litigation and that the petitioners have not approached this Court with clean hands. It is contended that the petitioners and their relatives own adjoining lands and have a private interest in keeping the disputed lands open so as to facilitate access to their properties. It is further submitted that Khasra



No. 249/2 is already reserved for Kabristan/graveyard purposes and that an application in respect of Khasra No. 249/1 is pending consideration before the competent authority.

13. Learned counsel for respondent No. 8 further submits that documents obtained under the Right to Information Act from the Gram Panchayat Office, forwarded through covering memo dated 25.02.2016, indicate that communal festivals are celebrated at a separate designated place and not on the disputed lands. It is thus contended that the allegations regarding long-standing exclusive use of the subject lands for religious and cultural programmes are factually incorrect.

14. We have heard learned counsel for the parties and perused the pleadings and documents appended thereto.

15. It is not in dispute that Khasra Nos. 249/1 and 249/2 are Government lands. It is also an admitted position, as borne out from the affidavit filed by the Collector and the panchnamas placed on record, that any fencing wire and iron gate erected over Khasra No. 249/2 have already been removed pursuant to the directions issued by this Court and that, as on date, the lands stand free from encroachment.

16. In view of the compliance reported by the State authorities, no further direction is required at this stage insofar as removal of the alleged encroachment is concerned. The dispute now essentially pertains to the proposed allotment or change of use of the lands in question, which is a matter pending consideration before the competent revenue authorities.



17. In such circumstances, we deem it appropriate to dispose of the present Public Interest Litigation with a direction to the competent authority, namely the Collector/Tahsildar concerned, to consider and decide all pending applications relating to Khasra Nos. 249/1 and 249/2 strictly in accordance with law. The authority shall afford an opportunity of hearing to all necessary and affected parties, including the petitioners and respondent No. 8, and shall pass a reasoned and speaking order uninfluenced by any observations made in the present petition. The aforesaid exercise shall be completed within a period of eight weeks from the date of receipt of a certified copy of this order.

18. With the above observations and directions, the present Public Interest Litigation stands **disposed off**. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice