

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPC No.3089 of 2021

Anil Kumar Gupta **Versus** State of Chhattisgarh & ors.

04/08/2021	Shri Sachin Singh Rajput, counsel for the petitioner. Shri Alok Bakshi, Addl. AG for the State. Heard. Learned counsel for the petitioner would submit that the tank which is situated over the land bearing Khasra No.346 was exempted by the order of the Compensation Officer, Durg in the year 1952 under the Abolition of Proprietary Rights Act, 1950. Subsequently, note-sheet dated 31.08.2010 (Annexure P-9) would affirm that the tank in question is private one which belongs to the petitioner which is on Khasra No.346 admeasuring 7.17 acres and known as Patra Talab. It is contended that despite the fact that pond is private one proceedings under Section 251 (1) of Chhattisgarh Land Revenue Code, 1959 (hereinafter referred to as 'the Code, 1959') was commenced to vest it in the State Government. He would further submit that Section 251 (1) of the Code, 1959 would not be applicable as the application under Section 251 (1) of the Code, 1959 can be made in respect of the tanks which are unoccupied, whereas in this case, the documents would show that during the Abolition of Proprietary Rights Act, 1950 the order while was passed, the tank situated at Khasra No.346, was vested with the petitioner through his ancestors, therefore, any proceeding under Section 251 (1) would be ab initio void.

Learned State counsel is directed to file reply.

Perused the documents as also the order of the Compensation Officer, Durg in Revenue Case No.656/I-A/4 of 1950-51. The order dated 11.03.1952 clearly records that the tank No.346 would vest with the private person and would not vest with the Government. Similar observation was made by the Naib Tehsildar, Dhamdha, wherein it was observed that the land can be vested with the State by providing other land to the petitioners. Considering the provisions of Section 251 of the Code, 1959, which prima facie reflects that the unoccupied tank situated on the unoccupied land would vest with the State. The order of the Compensation Officer would show that the land vested with the petitioner through predecessors. Consequently, the proceedings under Section 251 (1) which has been carried out by SDO and the proclamation made on 03.06.2021 shall not be acted upon and there shall be stay on the proceedings of case bearing No.20210310010000/A-74/2021-Nagar Palika Parishad, Kumhari Versus Anil Kumar Gupta till the next date of hearing.

List it after six weeks.

Certified copy as per rules.

Sd/-

Goutam Bhaduri

Judge

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