



2026:CGHC:19102

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5670 of 2025

1 - Padam Sethiya S/o Late Jankiram Sethiya Aged About 61 Years R/o Village- Markel, Tahsil Jagdalpur, District- Bastar (C.G.)

--- **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mantralaya Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District- Raipur (C.G.)

2 - The Commissioner Bastar Division, Jagdalpur, Distt- Bastar (C.G.)

3 - The Collector Jagdalpur, District- Bastar (C.G.)

4 - Sub-Divisional Officer (Revenue) Jagdalpur, District- Bastar (C.G.)

5 - Naib Tahsildar Tahsil- Jagdalpur, District Bastar (C.G.)

6 - Smt. Prabhat Nalin W/o Sadan Nayak R/o Village- Gadbaguda, Navarangpur (Odisha)

... **Respondents**

(Cause-title taken from the Case Information System)

For Petitioner :- Mr. Vikash A. Shrivastava, Advocate

For State :- Mr. S.S. Choubey, G.A.

For Respondent No. 6 :- Mr. Kabeer Kalwani, Advocate

SB- Hon'ble Shri Justice Amitendra Kishore Prasad

Order On Board

25.04.2026

1. By way of this petition, the petitioner has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India calling in question the legality, validity and propriety of the impugned eviction order dated 03.09.2025 passed by the respondent No.5/Naib Tahsildar, Jagdalpur, as well as the consequential orders passed by the appellate authorities i.e. the Sub-Divisional Officer (Revenue) dated 03.07.2023, the Commissioner dated 24.01.2025 and the Board of Revenue dated 30.05.2025, whereby the petitioner has been directed to be evicted from the land bearing Khasra No. 311.
2. Facts of the case, in brief, are that the petitioner claims to be in possession of the subject land for the last 40–50 years. Proceedings under Section 250 of the Chhattisgarh Land Revenue Code, 1959 were initiated at the instance of respondent No.6 alleging encroachment by the petitioner. During the course of proceedings before the Naib Tahsildar, the petitioner could not remain present on certain dates as he was in judicial custody. Consequently, the matter proceeded ex parte and an order of eviction came to be passed. The said order was affirmed in appeal and revision by the SDO, Commissioner and Board of Revenue respectively, leading to filing of the present writ petition.
3. Following reliefs have been prayed by way of this petition:-

“10.1 That, this Hon'ble Court may kindly be pleased to issue a writ in the nature of

certiorari or any other appropriate writ, order, or direction quashing the impugned eviction order dated 03.09.2025 passed by Respondent No. 5 (Annexure P/1), the order dated 28.04.2018 passed by the learned Naib Tahsildar (Annexure P/2), the order dated 03.07.2023 passed by the learned Sub-Divisional Officer (Annexure P/3), the order dated 24.01.2025 passed by the learned Commissioner (Annexure P/4), and the order dated 30.05.2025 passed by the learned Board of Revenue (Annexure P/6).

10.2 That, this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus directing the respondent authorities to restore and confirm the petitioner's peaceful possession over the land bearing Khasra No. 311, 311, area area 0.40 hectares, situated at Village Markel, P.H. No. 24, Tahsil Jagdalpur, District Bastar (C.G).

10.3 That, any other relief in favour of the petitioner, which this Hon'ble Court deemed fit and just in the facts and circumstances of the case."

4. Learned counsel for the petitioner submits that the entire proceedings suffer from gross violation of principles of natural justice. It is contended that the petitioner was in judicial custody during the relevant period and, therefore, could not appear before the Naib Tahsildar to defend his case or cross-examine the witnesses. It is further submitted that this fact was specifically

raised before the appellate authorities as well as the Board of Revenue, supported by the order passed in MCRC No. 4036/2018, yet the same has not been considered by any of the authorities. It is argued that once a plausible and sufficient cause for non-appearance was brought to the notice of the authorities, the matter ought to have been reconsidered on merits after affording proper opportunity of hearing. Non-consideration of such a vital ground vitiates the entire proceedings. Learned counsel, therefore, submits that the impugned orders are liable to be set aside and the matter deserves to be remitted back to the competent authority for fresh consideration.

5. Per contra, learned State counsel as well as counsel appearing for the private respondent submit that the petitioner had initially appeared before the Naib Tahsildar and had filed his reply. It is contended that thereafter he failed to appear at the stage of final hearing and, therefore, the order has rightly been passed. It is further submitted that the orders passed by the Naib Tahsildar have been affirmed by three successive revenue authorities and no interference is warranted in exercise of writ jurisdiction.
6. Per contra, learned State counsel opposes the petition and submits that the action has been taken on the basis of encroachment over Government land and in accordance with the provisions of the Chhattisgarh Land Revenue Code, 1959. It is, however, fairly submitted that proper demarcation of the land can

be undertaken and the petitioner's claim can be examined by the competent revenue authority in accordance with law.

7. I have heard learned counsel for the parties.
8. On perusal of the record, it appears that the petitioner had specifically raised a ground before the appellate authorities as well as before the Board of Revenue that he remained in judicial custody during the relevant period and, therefore, could not effectively participate in the proceedings before the Naib Tahsildar. It further appears that the said contention finds support from the order passed in MCRC proceedings granting bail to the petitioner. However, from the perusal of the orders passed by the SDO, Commissioner and Board of Revenue, it is evident that this specific ground has not been considered in its proper perspective.
9. In the considered opinion of this Court, when a party raises a plausible ground explaining his non-appearance, particularly on account of judicial custody, the same deserves due consideration, as it goes to the root of compliance of principles of natural justice. The failure of the authorities to consider such an important aspect has resulted in denial of adequate opportunity to the petitioner to defend his case. In such circumstances, this Court is of the view that the matter requires reconsideration by the competent authority after affording full opportunity of hearing to the petitioner as well as other concerned parties.
10. Accordingly, the writ petition is **allowed**.

11.The impugned order dated 03.09.2025 passed by the Naib Tahsildar, Jagdalpur, as well as the orders passed by the Sub-Divisional Officer (Revenue) dated 03.07.2023, the Commissioner dated 24.01.2025 and the Board of Revenue dated 30.05.2025 are hereby **set aside**.

12.The matter is **remitted back** to the concerned Tahsildar/competent authority to decide the case afresh. The concerned Tahsildar shall afford due opportunity of hearing to the petitioner as well as to the private respondent and shall permit the parties to place all relevant documents in support of their respective claims. Thereafter, the Tahsildar shall pass a reasoned and speaking order in accordance with law. The petitioner is directed to appear before the concerned Tahsildar on **15.06.2026** without awaiting any further notice.

13.It is made clear that this Court has not expressed any opinion on the merits of the case and the authority shall decide the matter independently in accordance with law. The entire exercise shall be completed expeditiously.

sd/-

(Amitendra Kishore Prasad)
Judge

Vishakha