

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC NO.5889 of 2022**

1. Lala Prasad Soni S/o Late Jagdish Soni, aged about 60 years, Caste-Sonar, R/o Village-Balrampur, Tahsil-Balrampur, Distt-Balrampur-Ramanujganj (CG)
2. Sagar Soni S/o Late Jagdish Soni, aged about 57 years, Caste-Sonar, R/o Village-Balrampur, Tahsil-Balrampur, Distt-Balrampur-Ramanujganj (CG)

---- Petitioners**Versus**

1. State of Chhattisgarh, through the Secretary, Department of Revenue, Mahanadi Bhawan, New Raipur, Distt-Raipur (CG)
2. The Collector, Balrampur, Distt-Balrampur-Ramanujganj (CG)
3. The Sub-Divisional Officer (Revenue) Balrampur, Distt-Balrampur-Ramanujganj (CG)
4. Tahsildar Balrampur, Distt-Balrampur-Ramanujganj (CG)
5. Revenue Inspector Balrampur, Office of Revenue Inspector, Division Balrampur, Distt-Balrampur-Ramanujganj (CG)
6. Mohan S/o Pusana, aged about 70 years, Caste-Uraon
7. Sanjay S/o Khelawan, aged about 35 years, Caste-Uraon,
8. Vijay S/o Khelawan, aged about 32 years, Caste-Uraon,
9. Pramila W/o Khelawan, aged about 55 years, Caste-Uraon,
10. Deepak S/o Late Ramdeni, aged about 28 years, Caste-Uraon,
11. Suresh S/o Late Ramdeni, aged about 25 years, Caste-Uraon,

Respondents No.6 to 11 are R/o Village-Balrampur, Tahsil-Balrampur, Distt-Balrampur-Ramanujganj (CG)

---- Respondent

For Petitioners	:	Mr.A.N.Pandey, Advocate
For Res.No.1 to 5/State	:	Mr.Ashish Tiwari, Govt.Advocate
For Respondent No.6	:	Mr.A.K.Prasad, Advocate

Hon'ble Shri Justice Deepak Kumar Tiwari
Order on Board

31.12.2022

1. The petitioners have filed this writ petition challenging the impugned notice dated 30.12.2022 (Annexure P-1) issued by respondent No.5 for recovery of possession of the house and land bearing khasra No.302 admeasuring area

0.05 hectare situated at village Balrampur, District Balrampur-Ramanujganj in pursuance of the order passed by the Collector, Balrampur-Ramanujganj on 14.12.2022 (Annexure P-2) in Revenue Appeal No.202110270100017(01/A-23/2021-2022 between Mohan v. Lala Prasad Soni and others, whereby the order passed by the Sub-Divisional Officer (Revenue), Balrampur in Revenue Case No.22/A-23/2010-2011 (Sanjay and others v. Jagdish Soni) on 30.7.2021 was set aside.

2. Mr.A.N.Pandey, learned counsel for the petitioners, would submit that the impugned order passed by the Collector, Balrampur-Ramanujganj is bad in law as he has not given any finding in respect of the provisions of Section 165(6) of the Chhattisgarh Land Revenue Code, 1959 (hereinafter called as "Code") and he has also not given any finding whether the house of the petitioners was constructed before 1980 or not and whether the provisions of Section 170B of the Code is applicable on the said land or not. He would further submit that though there is remedy of filing a revision before the Commissioner at Surguja Division against the order passed by the Collector, Balrampur-Ramanujganj, but post of Commissioner at Surguja Division is lying vacant and the Additional Commissioner, Bilaspur is in-charge of Commissioner at Surguja Division and he is also on leave till 1.1.2023. So, the petitioners have no option except to approach this Court.
3. Per contra, Mr.A.K.Prasad, learned counsel for respondent No.6, would submit that as there is an alternative remedy to file a revision before the Commissioner, therefore, the present writ petition under Article 226 of the Constitution of India is not maintainable.
4. Mr.Ashish Tiwari, learned Government Advocate for respondents No.1 to 5/State, would submit that the order was passed by the Collector, Balrampur-Ramanujganj on 14.12.2022 and the petitioners are having

alternative remedy for filing a revision before the Commissioner. He would further submit that normally leave arrangement has been made by the officer concerned.

5. Having considered the submissions of learned counsel for the parties, particularly considering that there is no dispute against the order passed by the Collector, Balrampur-Ramanujganj and efficacious alternative remedy of revision lies in favour of the petitioners before the Commissioner at Surguja Division and as post of Commissioner at Surguja Division is presently lying vacant and in-charge Commissioner is also on leave, this Court find it appropriate to stay the effect and operation of the impugned notice dated 30.12.2022 (Annexure P-1) issued by respondent No.5 in pursuance of the order dated 14.12.2022 (Annexure P-2) passed by the Collector, Balrampur-Ramanujganj for a period of 3 weeks. Ordered accordingly. If a revision along with interim application is filed by the petitioners before appropriate forum, the appropriate authority would do well to consider and decide the interim application in expeditious manner. It is made clear that the observation made by this Court shall not be construed to be an opinion on merits of the case and the competent authority shall be at liberty to decide the case on its own merits in accordance with law.

6. With the aforesaid observation, the writ petition finally stands disposed of.

No cost(s).

Certified copy today.

Sd/-

(Deepak Kumar Tiwari)
Vacation Judge

B/-