

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 782 of 2014**

1. Lalla Singh Chouhan S/o Shri Mangal Singh Aged About 51 Years Working As Kotwar At Village Dhamdha R/o Village Dhamdha Post And Thana And Tahsil Dhamdha, Civil And Revenue Distt. Durg. C.G. , Chhattisgarh
2. Man Vishram Manikpuri S/o Shri Bhagirathi Aged About 51 Years Working As Kotwar At Village Kunda, R/o Village Kunda, Thana Mandir Hasod, Tahsil Aarang, Civil And Revenue Distt. Raipur C.G. , District : Raipur, Chhattisgarh
3. Prem Kishore Bagh S/o Sri Jai Singh Aged About 55 Years Working As Kotwar At Village Kutela Tahsil Saraipali, P.S. Sarai Pali, Civil And Revenue Distt. Mahasamund C.G. , District : Mahasamund, Chhattisgarh
4. Chandra Prasad S/o Shri Darasram Aged About 39 Years Working As Kotwar At Village Jamgahan, R/o Village Jamgahan, Thana And Tahsil Malkharoda, Civil And Revenue Distt. Janjgir Champa C.G. , District : Janjgir-Champa, Chhattisgarh
5. Kotwar Association Of Chhattisgarh A Society Registered Under Society Registry Adhikaran Niyam Bearing Registration No. 40/2001, Registered Office At Karamchari Bhawan, Budhapara, Civil And Revenue Distt. Raipur C.G. Through Its President Prem Kishore Bagh S/o Late Shri Jai Singh Bagh Age 55 Yrs, --- **Petitioners**

Versus

1. State of Chhattisgarh S/o Through The Secretary, Department of Revenue And Disaster Management, Mahanadi Mantralaya, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.,
2. Deputy Secretary Department of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya Naya Raipur Distt. Raipur C.G.
3. The Collector Raigarh Distt. Raigarh C.G.
4. The Collector Mahasamund, Distt. Mahasamund C.G.
5. The Collector Janjgir - Champa , Distt. Janjgir - Champa C.G.
6. The Sub Divisional Officer Raipur Distt. Raipur C.G.
7. The Sub Divisional Officer Durg, Distt. Durg. C.G.
8. The Sub Divisional Officer Mahasamund, Distt. Mahasamund C.G.

9. The Sub Divisional Officer Janjgir - Champa , Distt. Janjgir - Champa
C.G. --- Respondents

WPC No. 292 of 2016

M/s Alok Infratech Pvt. Limited Through Its Director Amit Rateriya
S/o Shri Sanjay Rateriya, Aged About 33 Years, R/o Subhash Chowk
Raigarh Civil And Revenue District Raigarh Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Board of Revenue Bilaspur, Civil And
Revenue District Biaspur Chhattisgarh, Chhattisgarh
2. Collector, Raigarh, District Raigarh Chhattisgarh
3. Sukdas, S/o Nanki, Aged About 52 Years Caste Panika, R/o Village
Tarapur, Tahsil and District Raigarh Chhattisgarh
4. Shobharam S/o Banthuliya Aged About 50 Years R/o Village
Tarapur, Tahsil And District Raigarh Chhattisgarh --- Respondents

WPC No. 530 of 2015

Harishchand S/o Chamru Gade, Aged About 59 Years R/o Vill
Khaipali, P.O. Sondka, P.S. And Tah Kharasia, Civil And Revenue
District Raigarh Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh S/o Through Secretary Department of
Revenue, Mantralaya, Mahanadi Bhawan, New Raipur, Distt.
Raipur, Chhattisgarh
2. Tahsildar- Kharsia Distt. Raigarh Chhattisgarh ---- Respondents

WPC No. 535 of 2015

Sunil Wadhwa S/o S/o Shri S.D. Wadhwa Aged About 33 Years R/o
Janjgir Tah - District Janjgir Champa Through Murli, Guabani S/o
Late Jeevanlal Gulabani Age 50 Years R/o Sadar Bazar Champa
P.O. And P.S. Champa, Tahsil And Cviil Revenue District Janjgir
Champa Chhattisgarh , Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Department of Revenue,

Mantralaya Mahanadi Bhawan, New Raipur, District Raipur
Chhattisgarh

2. Tahsildar Champa, District Janjgir Champa Chhattisgarh.

---- Respondents

WPC No. 538 of 2015

Kaushal Prasad S/o So Dorilal Aged About 48 Years R/o Vill
Amakoni P.O. Udeker, P.S. And Tah Jaijaipur, Civil And Revenue
District Janjgir Champa Chhattisgarh , Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh S/o Through Secretary Department of
Revenue, Mantralaya Mahanadi Bhawan, New Raipur, Distt. Raipur
Chhattisgarh

2. Thasildar Jaijaipur District Janjgir Champa Chhattisgarh.

---- Respondents

WPC No. 540 of 2015

Barsan Das S/o S/o Dukaludas Aged About 40 Years R/o Pendri P.O
Pendri, P.S. And Tahsil Jaijaipur, Civil And Revenue District Janjgir
Champa Chhattisgarh , Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary Department of Revenue,
Mantralaya Mahanadi Bhawan, New Raipur Distt. Raipur
Chhattisgarh.

2. Thasildar Jaijaipur District Janjgir Champa Chhattisgarh.

---- Respondents

WPC No. 541 of 2015

Bahartaram S/o S/o Mohanlal Aged About 58 Years R/o Vill - Kikirda
P.O. Kikirda, P.S. And Tahsil Jaijaipur Hasod, Civil And Revenue
District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary Department of Revenue, Mantralaya Mahanadi Bhawan, New Raipur Distt. Raipur Chhattisgarh
2. Thasildar Jaijaipur District Janjgir Champa Chhattisgarh.

---- Respondents

WPC No. 542 of 2015

Dilchand S/o S/o Nanki Aged About 56 Years R/o Vill - Dhamni, P.O. Nariyara, P.S. And Tahsil Jaijaipur, Civil And Revenue District Janjgir Champa Chhattisgarh , Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary Department of Revenue, Mantralaya Mahanadi Bhawan, New Raipur Distt. Raipur Chhattisgarh
2. Thasildar Jaijaipur District Janjgir Champa Chhattisgarh.

---- Respondents

WPC No. 543 of 2015

Lakhan Lal S/o S/o Daulatram Aged About 59 Years R/o P.O. Vill Devrimath, P.S. And Tah Jaijaipur, Civil And Revenue District Janjgir Champa Chhattisgarh , Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Department of Revenue, Mantralaya Mahanadi Bhawan, New Raipur, Distt Raipur Chhattisgarh.
2. Tahsildar- Jaijaipur, Distt. Janjgir-Champa, Chhattisgarh.

---- Respondents

WPC No. 544 of 2015

Santan Das S/o Late Samaru Das Aged About 21 Years R/o Village P.O. Harethikala, P.S. & Tah Jaijaipur, Civil & Revenue District Janjgir Champa, Chhattisgarh , Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary, Department of Revenue, Mantralaya, Mahanadi Bhawan, New Raipur, Distt. Raipur Chhattisgarh
2. Tahsildar Jaijaipur, Distt. Janjgir Champa Chhattisgarh.

---- **Respondents**

WPC No. 545 of 2015

Sadhmati S/o W/o Firatram Aged About 37 Years R/o Vill P.O. Sendri, P.S. Hasod, Tah Jaijaipur, Civil And Revenue District Janjgir Champa Chhattisgarh , Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary Department of Revenue, Mantralaya Mahanadi Bhawan, New Raipur Distt. Raipur Chhattisgarh.
2. Thasildar Jaijaipur District Janjgir Champa Chhattisgarh.

---- **Respondent**

WPC No. 546 of 2015

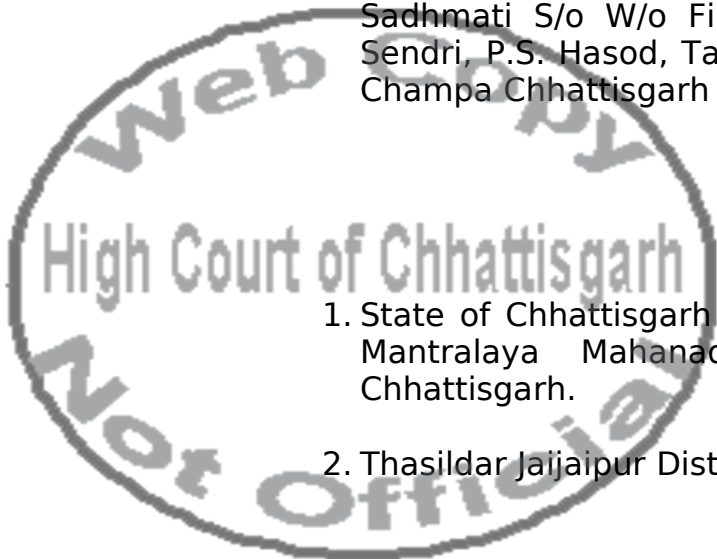
Babulal S/o S/o Pitamber Aged About 50 Years R/o Vill Barekal Kala, P.O. Parsada, P.S. And Tah Jaijaipur, Civil & Revenue District Janjgir Champa Chhattisgarh , Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary Department of Revenue, Mantralaya, Mahanadi Bhawan, New Raipur, Distt. Raipur, Chhattisgarh.
2. Thasildar Jaijaipur District Janjgir Champa Chhattisgarh.

---- **Respondents**



WPC No. 547 of 2015

Firtu Das S/o S/o Mangal Das Aged About 40 Years R/o Vill. Arasia P.O. And P.S. Hasod, Tah - Jaijaipur, Civil & Revenue District Janjgir Champa Chhattisgarh , Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary Department of Revenue, Mantralaya Mahanadi Bhawan, New Raipur Distt. Raipur Chhattisgarh.
2. Thasildar Jaijaipur District Janjgir Champa Chhattisgarh.

---- **Respondents**

WPC No. 552 of 2015

Balidas S/o S/o Kartikdas Aged About 60 Years R/o Tumidih, P.O. Harethikala, P.S. And Tahsil Jaijaipur Civil & Revenue District Janjgir Champa Chhattisgarh , Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary Department of Revenue, Mantralaya Mahanadi Bhawan, New Raipur Distt. Raipur Chhattisgarh
2. Thasildar Jaijaipur District Janjgir Champa Chhattisgarh

---- **Respondents**

WPC No. 553 of 2015

Manmohan S/o S/o Adhin Aged About 73 Years R/o Vill - Kuriyari, P.O. Godhana, P.S. And Tah - Navagarh Civil And Revenue District Janjgir Champa Chhattisgarh , Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary Department of Revenue, Mantralaya Mahanadi Bhawan, New Raipur Distt. Raipur Chhattisgarh

2. Tahsildar Navagarh, District Janjgir Champa Chhattisgarh

---- Respondents

WPC No. 554 of 2015

Ramadhar S/o S/o Sundersai Aged About 57 Years R/o Village Amoda, P.O. Parsada, P.S. And Tah Jaijaipur Hasod, Civil Revenue District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary Department of Revenue, Mantralaya Mahanadi Bhawan, New Raipur Distt. Raipur Chhattisgarh
2. Thasildar Jaijaipur District Janjgir Champa Chhattisgarh

---- Respondents

WPC No. 555 of 2015

Chandrika Prasad S/o S/o Late Shaniram Aged About 46 Years R/o Vill - Kikirda P.O. Kikirda, P.S. And Tahsil Jaijaipur Civil & Revenue District Janjgir Champa Chhattisgarh , Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary Department of Revenue, Mantralaya Mahanadi Bhawan, New Raipur Distt. Raipur Chhattisgarh
2. Thasildar Jaijaipur District Janjgir Champa Chhattisgarh

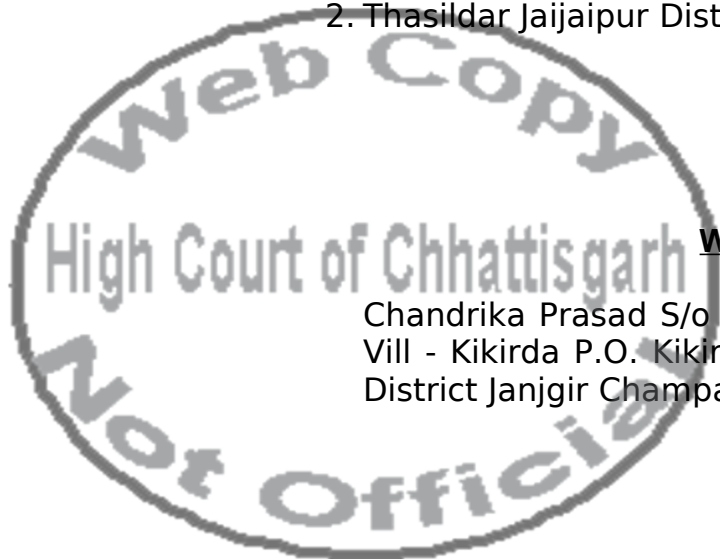
---- Respondents

WPC No. 629 of 2016

M/s Alok Infratech Pvt. Limited S/o Through Its Director Amit Rateriya, S/o Shri Sanjay Rateriya, R/o Subhash Chowk Raigarh, Civil And Revenue District Raigarh, Chhattisgarh

---- Petitioner

Versus



1. State of Chhattisgarh through Board of Revenue, Bilaspur, Civil & Revenue District Bilaspur, Chhattisgarh

2. Collector, Raigarh, District Raigarh, Chhattisgarh

---- Respondent

WPC No. 824 of 2015

Ramdyal S/o Brit Ram Aged About 80 Years R/o Vill- Limtara, P.S. & Tah- Sakti Civil And Revenue District- Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary Department of Revenue, Mantralaya Mahanadi Bhawan, New Raipur, Distt- Raipur Chhattisgarh

2. Tahsildar- Sakti, Distt- Janjgir- Champa Chhattisgarh

---- Respondents

WPC No. 902 of 2015

Sukrit Das Manikpuri S/o Late Shri Shuddu Das Aged About 38 Years R/o- Ward No. 6 Near S.B.I., Bilha, Tehsil- Bilha, Dist.- Bilaspur Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Department of Revenue and Disaster Management, Government of Chhattisgarh, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur District- Raipur Chhattisgarh

2. Commissioner, Land Records, Raipur District- Raipur Chhattisgarh,

3. District Collector, Bilaspur, District Bilaspur, Chhattisgarh.

4. Sub- Divisional Officer Revenue, Tehsil - Bilha, District- Bilaspur. Chhattisgarh

---- Respondents

WPC No. 1376 of 2015

Smt. Fool Bai S/o W/o Shri Tekam Lal Chouhan Aged About 48 Years D/o Late Shri Maniram Chouhan, R/o Village And Post-

Narharpali, Thana- Bhupdevpur, Tahsil Kharsiya, Civil And Revenue
Distt. Raigarh, Chhattisgarh ---- **Petitioner**

Versus

1. State of Chhattisgarh through The Secretary, Revenue and Disaster Management Department, Mantralaya Mahanadi Bhawan, Capital Complex, New Raipur, District Raipur, Chhattisgarh
2. Collector, Raigarh, Distt. Raigarh, Chhattisgarh.
3. Sub-Divisional Officer Revenue Kharsiya, Distt. Raigarh, Chhattisgarh
4. Tahsildar Kharsiya, Distt. Raigarh, Chhattisgarh ---- **Respondents**

WPC No. 1492 of 2015

Shiv Kumar Chauhan Kotwar S/o S/o Kanhaiya Chauhan, Aged About 60 Years R/o Village Sundra, P. H. No. 23, Tehsil And District Rajnandgaon, Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through- Secretary, Revenue Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh
2. The Collector, Rajnandgaon, Distt. Rajnandgaon, Chhattisgarh

---- **Respondents**

WPC No. 1509 of 2014

1. Jaising S/o S/o Jugnu Dogra Aged About 70 Years R/o Villa And P.O. Harradand, P.S. And Tah Kunkuri Distt. Jashpur C.G.
2. Basant Ram S/o Jaisingh Aged About 49 Years R/o Villa And P.O. Harradand, P.S. And Tah Kunkuri Distt. Jashpur C.G. ---- **Petitioners**

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Collector Jashpur, Distt. Jashpur, C.G.
3. The Tahsildar Kunkuri, Distt. Jashpur C.G. ---- **Respondents**

WPC No. 1510 of 2014

Brijmohan S/o S/o Akluram Aged About 57 Years R/o Village Kaliba
Po. Kaliba P.S. Narainpur Tahsil Kunkuri, Distt. Jashpur C.G. ,
Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Collector Jashpur, Distt. Jashpur, C.G.
3. The Tahsildar Kunkuri, Distt. Jashpur C.G.

---- **Respondents**

WPC No. 1511 of 2014

Suleman S/o S/o Thukru Aged About 60 Years R/o Vill Behrakhar
Po. Behrakhar P.S. Narainpur Tahsil Kunkuri, Distt. Jashpur C.G. ,
Chhattisgarh

---- **Petitioner**

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Collector Jashpur, Distt. Jashpur, C.G.
3. The Tahsildar Kunkuri, Distt. Jashpur C.G.

---- **Respondents**

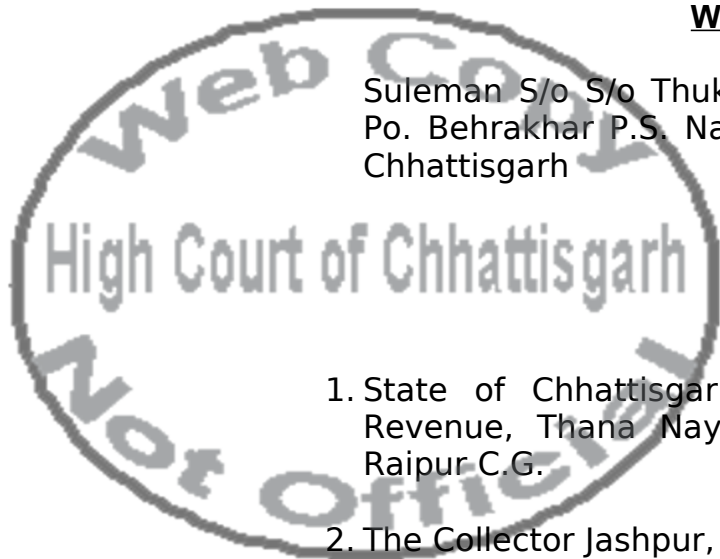
WPC No. 1512 of 2014

1. Telesfor S/o Johan Aged About 60 Years R/o Vill. Lodaamba Po. Harra, P.S. Dokda, Tahsil Kunkuri, Distt. Jashpur C.G.
2. Pravin S/o Telesfor Aged About 30 Years R/o Vill - Lodaamba P.O. Harra, P.S. Kokda P.O. Harra, P.S. Dokda, Tahsil Kunkuri, Distt. Jashpur C.G.

---- **Petitioners**

Versus

1. State Of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.



2. The Collector Jashpur, Distt. Jashpur, C.G.

3. The Tahsildar Kunkuri, Distt. Jashpur C.G.

---- Respondents

WPC No. 1513 of 2014

Budhnath S/o S/o Kotla Aged About 38 Years R/o Village Kastura
P.O. Kastura P.S. Duldula Tahduldula Distt. Jashpur C.G. ,
Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through The Secretary, Department of
Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan,
Raipur C.G.

2. The Collector Jashpur, Distt. Jashpur, C.G.

3. The Tahsildar Kunkuri, Distt. Jashpur C.G.

---- Respondents

WPC No. 1514 of 2014

Meghnath S/o S/o Tempu Aged About 65 Years R/o Vill Loro, P.O.
Patratoli P.S. Duldula, Tah - Duldula Distt. Jashpur C.G.

---- Petitioner

Versus

1. State of Chhattisgarh through the Secretary, Department of
Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan,
Raipur C.G.

2. The Collector Jashpur, Distt. Jashpur, C.G.

3. The Tahsildar Kunkuri, Distt. Jashpur C.G.

---- Respondents

WPC No. 1515 of 2014

1. Shivdas S/o Milap Das Kotwar Aged About 55 Years R/o Village
Motiyari Post And Tahsil Kawardha Civil & Revenue Distt.
Kabirdham C.G.

2. Uttam S/o Ramu Jaiswal Aged About 45 Years R/o Joratal Post And
Tahsil Kawardha Civil And Revenue Distt. Kabirdham C.G.

---- Petitioners



Versus

1. State of Chhattisgarh through the Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Secretary, State of C.G. Department of Revenue And Disaster Management Mantralaya Mahanadi Bhawan Naya Raipur Distt. Raipur C.G.
3. The Collector Kawardha, Kawardha Kabirdham C.G.
4. The Sub Divisional Officer Kawardha, Kawardha Kabirdham C.G.

---- Respondents

WPC No. 1582 of 2016

1. Goverdhan Das Panika S/o Shri Thurku, Aged About 65 Years By Caste Panika, R/o. Village And Post Baispali Thana And Tahsil Raigarh, Civil & Revenue Distt. Raigarh Chhattisgarh
2. Shyamkumar S/o. Prem Singh, Aged About 55 Years By Caste Gond, R/o Village & Post Bayang, Thana Kirodimalnagar, Tahsil Raigarh, Civil And Revenue Distt. Raigarh Chhattisgarh.

---- Petitioners

Versus

1. State of Chhattisgarh through the Secretary, Revenue And Disaster Management Department, Mantralaya Mahanadi Bhawan, Capital Complex New Raipur, District Raipur Chhattisgarh
2. Collector, Raigarh, District Raigarh Chhattisgarh.
3. Sub-Divisional Officer Revenue, Raigarh, District Raigarh Chhattisgarh.
4. Tahsildar, Raigarh, District Raigarh Chhattisgarh. ---- Respondents

WPC No. 1728 of 2014

Bachanbai S/o W/o Sukmandas Aged About 55 Years R/o Telikot P.O. Telikot P.S. And Tah Kharasia Civil And Revenue Distt. Raigarh C.G.

---- Petitioner

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.

2. The Tahsildar Kharasia, Distt. Raigarh C.G. ---- Respondents

WPC No. 1729 of 2014

Meladas S/o Randas Aged About 45 Years R/o Makri P.O. Ghaghra,
P.S. And Tah - Kharsia Civil And Revenue Distt. Raigarh C.G.

---- Petitioner

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.

2. The Tahsildar Kharasia, Distt. Raigarh C.G. ---- Respondents

WPC No. 1852 of 2014

Suresh Singh S/o Kher Singh Aged About 51 Years R/o Radhakrishna Ward Kawardha, Po And Ps Kawardha, Civil And Revenue Distt Kabirdham, C.G.

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Department of Revenue, Mantralaya, Mahanadi Bhawan, New Raipur, Distt Raipur, C.G.

2. Tahsildar Kawardha, Distt Kabirdham, C.G. ---- Respondents

WPC No. 1901 of 2014

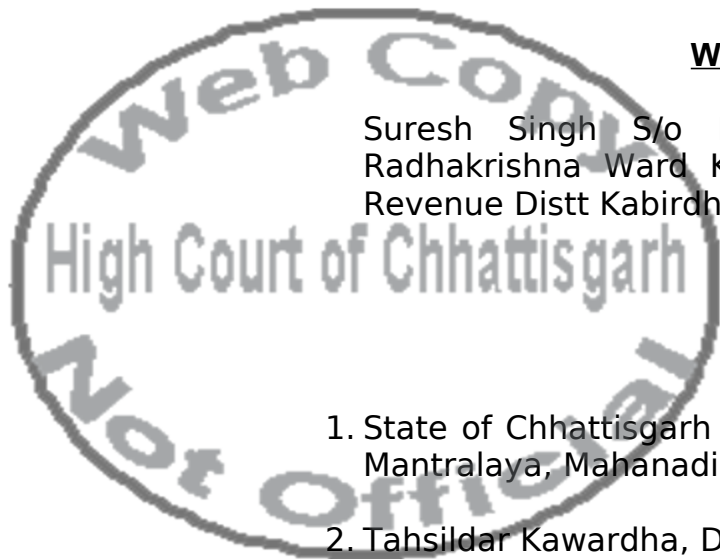
1. Geeta Soni W/o Om Prakash Soni Aged About 52 Years Caste Sunar, R/o Ramayan Chowk, Chantidih, Tahsil Bilaspur Civil And Revenue Distt. Bilaspur C.G.

2. Sarojani Chouhan W/o Jethuram Chouhan Aged About 40 Years Caste Thakur R/o Village Ramtala, Tahsil Bilaspur Civil & Revenue Distt. Bilaspur C.G. ---- Petitioners

Versus

1. State of Chhattisgarh through Its Secretary, Department of Revenue, Mahanadi Bhawan, New Raipur C.G.

2. Commissioner Division Bilaspur Distt. Bilaspur C.G.



3. Collector Bilaspur, Distt. Bilaspur C.G.
4. Sub Divisional Officer Revenue Bilaspur Distt. Bilaspur C.G.
5. Tahsildar Tahsil Bilaspur Distt. Bilaspur C.G.
6. Saheb Das S/o Premdas Aged About 50 Years Caste Panika, R/o Near Kali Temple, Tifra Distt. Bilaspur C.G. ---- **Respondents**

WPC No. 1908 of 2014

1. Tukaram S/o Vidyadhar Gada Aged About 49 Years R/o Village Gohrapadar, Post Mainpur P.S. Devbhog, Distt. Gariyaband C.G.
2. Ugrasen Gada S/o Bhokali Aged About 50 Years R/o Village Tetalkhutti, Post Mainpur P.S Devbhog, Distt. Gariyaband C.G.
3. Bamdev S/o Dular Gada Aged About 50 Years R/o Village Dharnidhoda, , Post Mainpur P.S Devbhog, Distt. Gariyaband C.G.
4. Brijlal S/o Gurud Gada Aged About 57 Years R/o Village Bhejipadar, , Post Mainpur P.S Devbhog, Distt. Gariyaband C.G.
5. Duryodhan S/o Sukhiya Gada Aged About 30 Years R/o Village Madagmuda, Post Mainpur P.S Devbhog, Distt. Gariyaband C.G.
6. Mansingh S/o Girdhar Gada Aged About 40 Years R/o Village Bajadi, Post Mainpur P.S Devbhog, Distt. Gariyaband C.G.
7. Durobai Pradhan W/o Shatrughan Pradhan Aged About 53 Years R/o Village Dhodra, Post Mainpur P.S Devbhog, Distt. Gariyaband C.G.
8. Goverdhan S/o Chandrasevak Gada Aged About 59 Years R/o Village Jhargaon, Post Mainpur P.S Devbhog, Distt. Gariyaband C.G.

---- **Petitioners**

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue And Disaster Management, Mahanadi Mantralaya, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Joint Secretary, State Of Chhattisgarh Department Of Revenue And Disaster Management Mahanadi Bhawan Mantralaya New Raipur C.G.
3. The Collector Gariyaband, Distt. Gariyaband C.G.
4. The Sub Divisional Officer Revenue, Gariyaband, Distt. Gariyaband C.G.

5. The Sub Divisional Officer Mainpur Distt. Gariyaband C.G.
6. The Tahsildar Devbhog, Distt. Gariyaband C.G.
7. The Tahsildar Mainpur P.S. Mainpur, Distt. Gariyaband C.G.

---- Respondents

WPC No. 2045 of 2016

Narendra Das S/o Shri Judawan Das Panika, Aged About 39 Years
R/o Village Singhanpuri, Tahsil Kawardha, District Kabirdham
Chhattisgarh

---- Petitioner

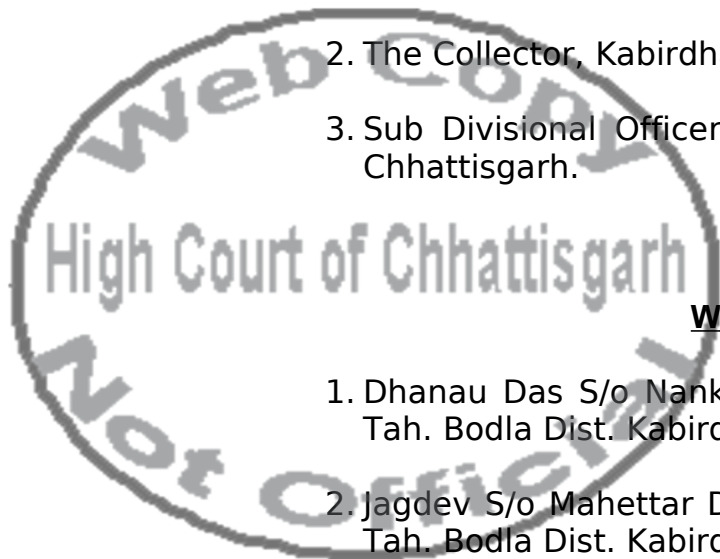
Versus

1. State of Chhattisgarh through The Secretary, Revenue Department
Mantralaya, Mahanadi Bhawan, New Raipur Chhattisgarh
2. The Collector, Kabirdham District Kabirdham Chhattisgarh
3. Sub Divisional Officer, Revenue , Kabirdham, District Kabirdham
Chhattisgarh.

---- Respondents

WPC No. 2086 of 2014

1. Dhanau Das S/o Nanku Das Aged About 65 Years R/o Vill. Bodla,
Tah. Bodla Dist. Kabirdham C.G.
2. Jagdev S/o Mahettar Das Aged About 45 Years R/o Vill. Bodlakala,
Tah. Bodla Dist. Kabirdham C.G.
3. Budhramdas S/o Jhumk Das Aged About 52 Years Vil. Khirshali,
Tah. Bodla Dist. Kabirdham C.G.
4. Dhruv Das S/o Shukla Das Aged About 48 Years Vill. Lejakhar, Tah.
Bodla Dist. Kabirdham C.G.
5. Dukhiram S/o Dhasiya Das Aged About 48 Years Vill. Khadoda
Khurd Tah. Bodla Dist. Kabirdham C.G.
6. Jaggudas S/o Ramdas Aged About 50 Years Vill. Bodla Tah. Bodla
Dist. Kabirdham C.G.
7. Jugal Das S/o Gulab Das Aged About 49 Years Vill. Manikpur Tah.
Bodla Dist. Kabirdham C.G.
8. Mangaldas S/o Guhradas Aged About 62 Years Vill.
Nadegaonmaidan Tah. Bodla Dist. Kabirdham C.G.
9. Santosh Das S/o Mahettar Das Aged About 45 Years Vill. Jaitarola



Tah. Bodla Dist. Kabirdham C.G.

10. Ghurdas S/o Deo Singh Aged About 63 Years Vill. Shuknapara Tah. Bodla Dist. Kabirdham C.G. ---- **Petitioners**

Versus

1. State of Chhattisgarh through The Secretary Reveue Department Mantralaya Mahandi Bhawan New Raipur C.G.
2. The Collector Kabirdham C.G.
3. Sub Divisional Officer revenue Kabirdham C.G. ---- **Respondents**

WPC No. 2138 of 2014

1. Pyaredas S/o Shri Mahesh Das Aged About 60 Years R/o Village Kusmghata, Kotwar, Tah Kawardha, Civil And Revenue Dist Kabirdham, C.G.
2. Lochandas S/os Hri Sukhram Das Aged About 52 Years R/o Village Kusumghata, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
3. Roshandas S/o Shri Samarudas Aged About 39 Years R/o Village Kharahatta, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
4. Bharat Das S/o Shri Manik Das Aged About 40 Years R/o Village Baiharsadi, Kotwar, Tah Kawardha, Civil And Revenue Dist Kabirdham, C.G.
5. Shatruhandas S/o Hri Lateldas, Aged About 48 Years R/o Village Bagharra, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
6. Devdas S/o Shri Ramhandas Aged About 55 Years R/o Village Barhatti, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
7. Ganpatdas S/o Shri Mahetardas Aged About 58 Years R/o Village Bhaluchuwa, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
8. Dharamdas S/o Shri Ruheldas. Aged About 58 Years R/o V8illage Chhapari, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
9. Gurdas S/o Shri Fouldas Aged About 70 Years R/o Village Chikhali, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
10. Balaram S/o Shri Baburam Aged About 40 Years R/o Village Ghatkaikhurd, Kotwar, Tah Kawardha, Civil And Revenue Distt

Kabirdham, C.G.

11. Sureshdas S/o Shri Sahebadas Aged About 37 Years R/o Village Ghongla, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
12. Rameshwardas S/o Shri Bhakhla Das Aged About 42 Years R/o Village Riwapar, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
13. Gonandas S/o Shri Gayadas Aged About 40 Years R/o Village Lata, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
14. Chhattardas S/o Shri Punidas. Aged About 33 Years R/o Vill Dhogairola, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
15. Shagundas S/o Shri Lateldas Aged About 60 Years R/o Village Podi, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
16. Fagudas S/o Shri Nirmalds Aged About 55 Years R/o Village Uslapur, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
17. Ganpat S/o Shri Shyamlal Aged About 53 Years R/o Village Mudiyapara, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
18. Agardas S/o Shri Kripaldas Aged About 55 Years R/o Village Rajanavagaon, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
19. Janakdas S/o Shri Jutheldas Aged About 56 Years R/o Village Rajanavagaon, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
20. Sevakdas S/o Shri Sahebadas Aged About 36 Years R/o Village Bhareli, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
21. Shitaldas S/o Shri Dhelau Das Aged About 40 Years R/o Village Hathideo, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
22. Kanhaiya Singh S/o Syhri Ghanshyam Aged About 44 Years R/o Village Chandalpur, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
23. Fulwati W/o Shri Manbahaldas, Aged About 48 Years R/o Village Baiharsadi, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.
24. Juthelram S/o Jhadudas. Aged About 58 Years R/o Village Poditola, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G.

25. Kalabai W/o Shri Dhikhudas Aged About 50 Years R/o Village Kabratola, Kotwar, Tah Kawardha, Civil And Revenue Distt Kabirdham, C.G. ---- **Petitioners**

Versus

1. State of Chhattisgarh through Secretary, Revenue Department Mantralaya, Mahanadi Bhawan, New Raipur, Dist Raipur, C.G.
2. The Collector Kabirdham, Dist Kabirdham, C.G.
3. Sub Divisional Officer, Revenue Kabirdham, Dist Kabirdham, C.G.

---- **Respondents**

WPC No. 2310 of 2014

Puniram S/o Tiharuram Aged About 50 Years R/o Vilalge Chootedomarpali P.O. Pamgarh P.S. And Tahsil Kharsia Civil & Revenue Distt. Raigarh C.G. ---- **Petitioner**

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Tahsildar Kharsia Distt. Raigarh C.G. ---- **Respondents**

WPC No. 2311 of 2014

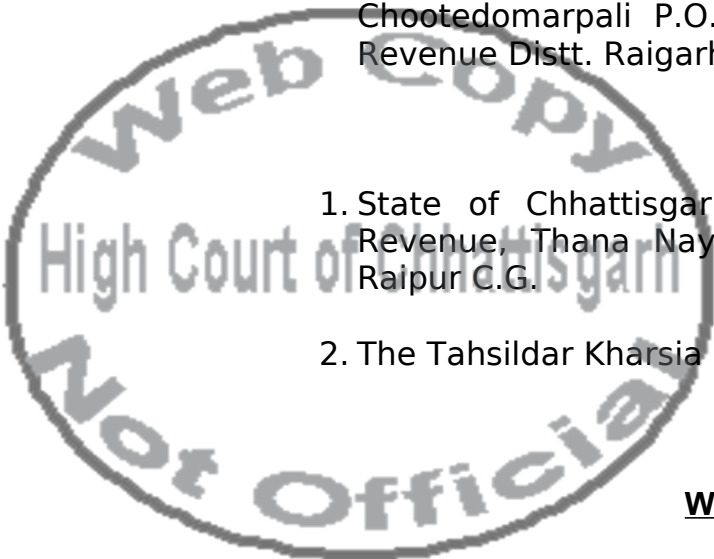
Shrawan Kumar Gond S/o Mehtarram Aged About 36 Years R/o Vill Ratan Mahka P.O. Ghaghra P.S. And Tah Kharsia Civil & Revenue Distt. Raigarh C.G. ---- **Petitioner**

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Tahsildar Kharsia Distt. Raigarh C.G. ---- **Respondents**

WPC No. 2336 of 2014

Sahettar W/o S/o Jhagru Aged About 57 Years R/o Halahulli P.O. Halahulli P.S. And Tah Kharasia Civil And Revenue Distt. Raigarh C.G. ---- **Petitioner**



Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Tahsildar Tahsildar, Kharsia Distt. Raigarh C.G.---- **Respondents**

WPC No. 2337 of 2014

Chaitram S/o Bhagirathi Aged About 55 Years R/o Village Badedumerpali P.O. Pamgarh P.S. And Tah Kharsia Civil And Revenue Distt. Raigarh C.G.

---- **Petitioner**

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Tahsildar Tahsildar, Kharsia Distt. Raigarh C.G.---- **Respondents**

WPC No. 2338 of 2014

Nanhi Bai W/o Sukhdev Das Aged About 50 Years R/o Bhagodih P.O. Navapara P.S. And Tahsil Kharsia Civil And Revenue Distt. Raigarh C.G.

---- **Petitioner**

Versus

1. State of Chhattisgarh through The Secretary, Department of Revenue, Thana Naya Raipur, Secretariat Maha Nadi Bhawan, Raipur C.G.
2. The Tahsildar Tahsildar, Kharsia Distt. Raigarh C.G.---- **Respondents**

WPC No. 2395 of 2017

Siddhi Ram S/o Late Shri Kunwar Singh, Aged About 47 Years R/o Village Bajrangpur, Navagaon, Ward No. 1, Tehsil And District Rajnandgaon, Chhattisgarh.

---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary, Revenue Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.

2. The Collector, Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- Respondents

WPC No. 2416 of 2017

Dhanurjay Chauhan S/o Mehattar Ram Chauhan, Aged About 40 Years R/o Village Khuruslenga, Tahsil Tamnar, District Raigarh, Civil And Revenue District Raigarh Chhattisgarh. ---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary, Revenue Department, Mahanadi Bhavan, Mantralay, New Raipur Chhattisgarh.
2. The Collector, Raigarh, District Raigarh Chhattisgarh.
3. Sub Divisional Officer R Gharghoda, District Raigarh Chhattisgarh.
4. Nayab Tahsildar, Tamnar, District Raigarh Chhattisgarh.

---- Respondents

For Petitioners : Mr. Sachin Singh Rajput, Mr. Manoj Paranjpe, Mr. Anup Majumdar, Mr. Parag Kotecha, Mr. Malay Shrivastava, Mr. Jitendra Pali & Mr. Kamal Kishore Patel, Advocates for the respective Petitioners.

For Respondent/ : Mr. Ramakant Mishra, Dy. A.G. with Mr. Anupam Dubey, State Govt. Advocate

CAV ORDER

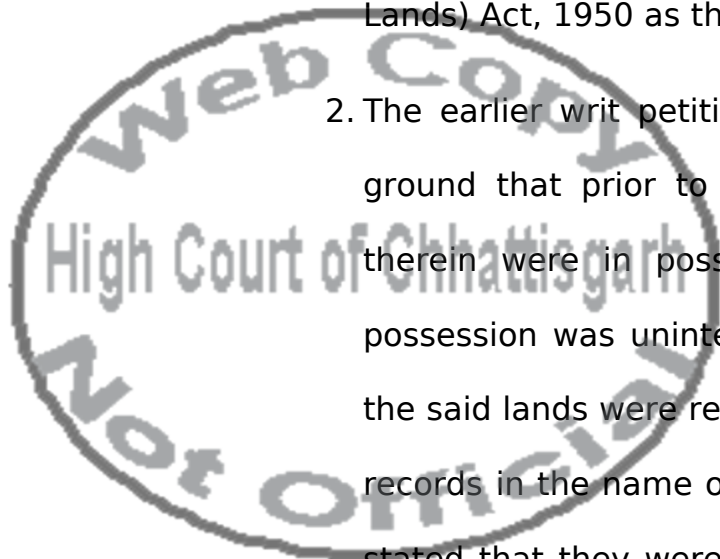
(Reserved on 14.11.2017)

(Delivered on 01.02.2018)

1. In this batch of petitions, the core question involved is one and the same and the issue arises over a direction issued by the Joint Secretary, State of Chhattisgarh, Revenue and Disaster Management. By such notification dated 10.03.2014 it takes away the earlier effect of instruction dated 21.04.2003 issued by the Government. The earlier notification dated 21.04.2003 was

directed to be withdrawn by the impugned notification whereby Bhumiswami rights of the Kotwars were conferred pursuant to the order passed in W.P. No.2064/2000 dated 31.10.2001 when the history and background of the issue is traced, it unearths that certain Kotwars i.e. Chhabilal Das & others in the year 2000 had preferred writ petitions before the High Court which were numbered as W.P. No. 2632/2000 & 2064/2000. The High Court in such writ petitions on 31.10.2001 had passed an order to confer Bhumiswami rights to Kotwars who were holding the land on the date of Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 as the lands were said to be 'mafi' lands.

2. The earlier writ petitions were preferred by the Kotwars on the ground that prior to 1950, the predecessors of the petitioners therein were in possession of agricultural lands and were in possession was uninterrupted and continuous. It was stated that the said lands were recorded in Jamabandi i.e. settlement revenue records in the name of the predecessors of the petitioners. It was stated that they were working as Kotwars in the village but the lands were granted prior to 1950 to the petitioners by the said Mal Gujars for their enjoyment. So after abolition of Jamindari they being in possession of the land became the Bhumiswamis of the said lands. In the return filed on behalf of the State, the possession of the petitioners were not disputed and it was stated that the revenue authorities were contemplating to grant Bhumiswami right to the said persons. The Court while adjudicating the said writ petition recorded the submission of the petitioners that the lands in question were mafi lands and not



service lands. The Court observed that since the lands were granted prior to 1950 to the predecessors of the petitioners, as a result, direction was given to the competent authority to grant Bhoomiswarmi right in respect of the lands recorded in Jamabandi in favour of the writ petitioners therein.

3. Based on such direction, the State Government on 21.04.2003 passed the following order, which is filed as Annexure P-8. The order reads as under-

छत्तीसगढ़ शासन,
राजस्व विभाग,
मंत्रालय

क्रमांक एफ-10-11/2000/सात/समन्वय,

रायपुर, दिनांक अप्रैल, 2003

प्रति,
समस्त कलेक्टर
जिला.....
(छत्तीसगढ़)

विषय:- कोटवारों को वर्ष 1950 के पूर्व दी गई सेवाभूमि के सम्बन्ध में।

संदर्भ:- विभाग का अर्धशासकीय पत्र क्रमांक एफ-10-11/2000/सात/समन्वय दिनांक 28-2-2003.

— — —

कृपया सन्दर्भित पत्र का अवलोकन करें।

2. विविध याचिका क्रमांक 2632 एवं 2064/2000 में माननीय उच्च न्यायालय बिलासपुर द्वारा दिये गये आदेश दिनांक 03-05-2001 की प्रति संलग्न है। माननीय न्यायालय द्वारा दिये गये आदेश के अनुरूप कोटवारों को वर्ष 1950 के पूर्व मालगुजार/ प्रोप्राइटर्स द्वारा दी गई भूमि का भूमिस्वामी हक दिया जाकर अभिलेख में दर्ज की जाना है। यह निर्णय इसी प्रकार के अन्य कोटवारों पर भी लागू होगा जो न्यायालय में नहीं गये हैं।

3. माननीय उच्च न्यायालय के उक्त आदेश के अनुरूप पालन तत्काल सुनिश्चित कर इस विभाग को अवगत कराने का कष्ट करें।

(सचिव द्वारा अनुमोदित)

हस्ता/-
(पी.एस. तिवारी)
अवर सचिव,
छत्तीसगढ़ शासन, राजस्व विभाग,

क्रमांक एफ-10-11/2000/सात/समन्वय

रायपुर दिनांक 21 अप्रैल, 2003

प्रतिलिपि:-

1. मुख्य मंत्री सचिवालय (छत्तीसगढ़)
2. आयुक्त, भू-अभिलेख (छत्तीसगढ़)
3. रजिस्ट्रार, माननीय उच्च न्यायालय, बिलासपुर (छत्तीसगढ़) की ओर सूचनार्थ
4. स्टाफ आफिसर, मुख्य सचिव, (छत्तीसगढ़)
5. प्रान्ताध्यक्ष, छत्तीसगढ़ कोटवार एसोसिएशन, कर्मचारी भवन, बुढ़ापारा रायपुर (छत्तीसगढ़) की ओर सूचनार्थ।

सही/-

अवर सचिव,
छत्तीसगढ़ शासन, राजस्व विभाग

4. Thereafter, the numbers of Kotwars who were working in the State applied to get their name mutated in respect of the land held by them as Bhoomiswami right. Some of the Kotwars were benefited by the order and some remained. The said process continued and the time rolled by. Thereafter, an advise was given to the Collector by the Dy. Secretary, State of Chhattisgarh, Revenue & Disaster Management basing upon an opinion given by the Advocate General, which is filed as Annexure P-1. The Joint Secretary by a communication dated 10.03.2014 passed the following directions, the letter is reproduced herein below :

छत्तीसगढ़ शासन
राजस्व एवं आपदा प्रबंधन विभाग
मंत्रालय
महानदी भवन, नया रायपुर
कमांक एफ 10-11/2000/आ.प्र./पार्ट-2
नया रायपुर, दिनांक 10 मार्च 2014

प्रति,
समस्त संभागायुक्त,
समस्त कलेक्टर,
छत्तीसगढ़

विषय:- कोटवारों को वर्ष 1950 के पूर्व मालगुजारों/ प्रोपराईटर द्वारा दी गई भूमि के संबंध में लिये गये परिपत्र दिनांक 21.12.2011 को वापस लिये जाने बाबत।

संदर्भ:- इस विभाग का परिपत्र दिनोंक 10-11/2000/न्या.प्र./पार्ट-2, दिनांक 21.12.2011।

कृपया संदर्भित पत्र का अवलोकन करने का कष्ट करें। माननीय उच्च न्यायालय द्वारा रिट याचिका कमांक 2632 एवं 2064/2000 में पारित आदेश दिनांक 03.05.2001 द्वारा निर्देशित किया गया है कि याचिकाकर्ता कोटवारों को मालगुजारों द्वारा वर्ष 1950 के पूर्व प्रदान की गई भूमि हेतु स्वामी अधिकार दिये जाये।

2/ विभागीय पत्र कमांक एफ 10-11/2000/सात/समन्वय, दिनांक 21.04.2003 द्वारा निर्देशित किया गया है कि ऐसे कोटवार जिन्होंने न्यायालय में याचिक दायर नही की है तथा जिन्हें मालगुजारों द्वारा कोटवारी के एवज में भूमि प्रदान की गई थी तथा जो पीढ़ी दर पीढ़ी कोटवार का कार्य करते आ रहे हैं, उन्हें भी भूमि स्वामी अधिकार प्रदान किये जाएं। तत्पश्चात् विभागीय पत्र कमांक एफ 10-11/2000/न्या.प्र./पार्ट-2, दिनांक 21.12.2011 द्वारा पत्र दिनांक 21.04.2003 को निरस्त किया गया है।

3/ शासन के ध्यान में यह बात लायी गई है कि भूमि स्वामी अधिकार प्राप्त होने के पश्चात कतिपय कोटवारों द्वारा कोटवारी भूमि का विक्रय बिना कलेक्टर की अनुमति कर दिया गया है। कोटवारी भूमि का भूमि स्वामी हक शासन द्वारा दिया गया है। संहिता की धारा 158 के प्रावधानों के अनुसार ऐसी भूमि जिसका स्वामी हक शासन द्वारा दिया गया है, का हस्तांतरण 10 वर्ष की अवधि तक नही किया जा सकता। धारा 165 (7-ख) के प्रावधानों के अनुसार शासन द्वारा भूमि स्वामी हक पर प्रदत्त भूमि का विक्रय बिना कलेक्टर की अनुमति के नहीं किया जा सकता। धारा 109 के प्रावधानों के अनुसार स्वत्व के विधि पूर्वक हस्तांतरण होने पर ही नामांतरण किया जा सकता है।

4/ उपरोक्त प्रावधानों के परिप्रेक्ष्य में कोटवारों द्वारा विक्रय की गई भूमि संबंधी प्रकरणों का परीक्षण किया जाकर आवश्यक कार्यवाही की जाए तथा कोटवारों को प्रदान की गई भूमि के अभिलेखों में "अहस्तांतरणीय" शब्द लिखा जाना सुनिश्चित किया जाए।

5/ कोटवारों द्वारा अवैधानिक रूप से विक्रय की गई भूमि के विक्रय विलेख को भी व्यवहार न्यायालय में वाद दायर कर निरस्त कराया जाना होगा। इसके लिए विक्रय विलेखों की छाया प्रति भी संबंधित उप पंजीयकों से प्राप्त की जाये। समस्त कार्यवाही को एक समय-सीमा में पूर्ण की जाये।

6/ विक्रय की गई भूमि के संबंध में महाधिवक्ता छ.ग., बिलासपुर के पत्र दिनांक 30.04.2012 के मार्गदर्शन अनुसार निम्नानुसार कार्यवाही 06 माह के भीतर किया जाना सुनिश्चित करें:-

i. विभागीय पत्र दिनांक 21.04.2003 के परिप्रेक्ष्य में कितने कोटवारों को कितनी जमीन का भूमि स्वामी हक दिया गया है, की जानकारी एकत्रित की जाये ?

ii. कंडिका (i) में वर्णित कितने कोटवारों द्वारा कितनी भूमि का विक्रय कर दिया है, की जानकारी एकत्रित की जाए?

iii बेची गई जमीन के दस्तावेज संबंधित उप पंजीयक से प्राप्त किया जाए।

iv. विभागीय पत्र दिनांक 21.04.2003 के परिप्रेक्ष्य में जिन कोटवारों को भूमि स्वामी दर्ज किया गया है, उन्हें पुनः सेवा भूमि के रूप में दर्ज किया जाए।

v. क्रेताओं को अवैध अंतरण तथा अवैध नामांतरण के विरुद्ध नोटिस जारी कर कब्जा प्राप्त करने की कार्यवाही की जाए।

vi. यदि क्रेता उपरोक्त नोटिस का पालन नहीं करते हैं तो राज्य शासन सिविल वाद संस्थित करें।

संलग्न:- महाधिवक्ता का पत्र दिनांक 30.04.2012

हस्ताक्षर
(पी. निहालानी)
संयुक्त सचिव
छत्तीसगढ़ शासन
राजस्व एवं आपदा प्रबंधन विभाग

पृ.क्रमांक एफ 10-11/2000/आ.प्र./पार्ट-2 नया रायपुर दिनांक 10 मार्च 2014

प्रतिलिपि -

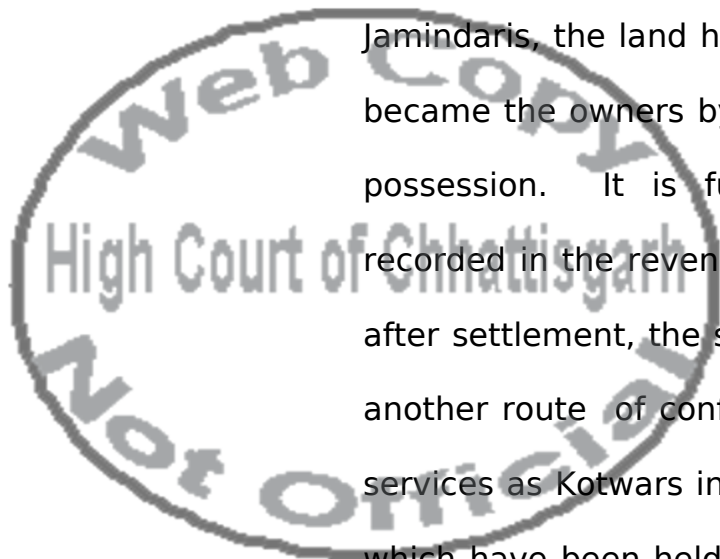
1. आयुक्त, भू-अभिलेख, रायपुर
2. रजिस्ट्रार, माननीय उच्च न्यायालय, बिलासपुर, छ.ग.
3. महाधिवक्ता, बिलासपुर, छ.ग.
4. प्रांताध्यक्ष, छ.ग. कोटवार एसोसिएशन, कर्मचारी भवन, बुढापारा, रायपुर, छ.ग. की ओर सूचनार्थ।

हस्ताक्षर
संयुक्त सचिव
छत्तीसगढ़ शासन
राजस्व एवं आपदा प्रबंधन विभाग

5. After issuance of such directions, the batch of Kotwars had filed these petitions to quash the direction on different grounds including the fact that the land held by them through their predecessor-in-title on the date of Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (hereinafter referred to Actg of 1950) they became the Bhumiswamis of such lands and the present Kotwars being their heirs have Bhumiswami rights over such agricultural lands which were held by the predecessors

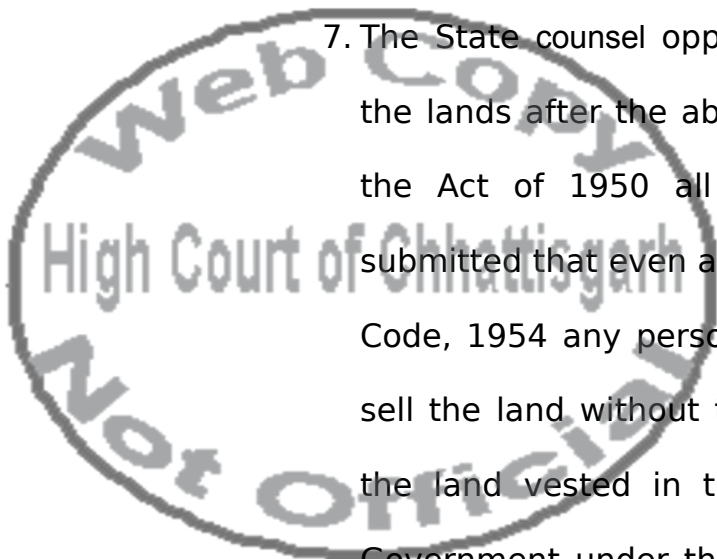
of them on the date of Abolition Right of Zamindars by Act of 1950.

6. Learned counsel for the petitioners would submit that the nature of the petition as on today qua the petitioners the conferral of the right to hold the lands have sourced through two different routes. It is contended that the predecessors of Kotwars who were holding the land prior to 1950 of the Act of Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 became the owner by virtue of their possession of the land given to them by the ex-proprietors. It is contended that after abolition of the Jamindaris, the land held by the predecessor of the Kotwars, they became the owners by virtue of holding of such land and were in possession. It is further submitted that their names were recorded in the revenue record by the competent authorities and after settlement, the same continued. Further it is submitted that another route of conferral of right is by virtue of rendering their services as Kotwars in recent years. It is stated that the said land which have been held as per the provisions of Section 183 of the C.G. Land Revenue Code, 1959, the same would remain a service land. It is stated that by direction given by the Joint Secretary in the year 2014 which has no legal source, the lands which are held earlier by the Kotwars through the predecessor of the Kotwars as Bhoomiswami right after abolition of the Jamindari of 1950 and the land presently held by the petitioners/ Kotwars by virtue of service rendered by them are amalgamated and are thrown into the common pool. It is contended that by such amalgamation, the right of Kotwars over service land and the land held as



Bhoomiswami land are recorded as one land as Kotwari land/service land where by the Bhumiswami rights are converted into service land thereby ownership over those part lands are extinguished. It is contended that the direction so issued would have an affect of deproprietary legislation for which the issuing authority was not entitled as the same was not issued by order and in the name of the Governor, as such, such directions are illegal and nonest in the eyes of law. It was further contended that under the circumstances, the direction so issued by the State Government needs to be quashed summarily.

7. The State counsel opposes the argument. It is submitted that all the lands after the abolition of the Jamindari in the year 1950 by the Act of 1950 all lands vested in the State. It is further submitted that even after coming into force of M.P. Land Revenue Code, 1954 any person holding service lands was not entitled to sell the land without the permission of the State Government as the land vested in the State. It is further submitted that the Government under the Land Revenue Code has all the power to review its earlier order and therefore by virtue of Section 32 of the Land Revenue Code, 1959 has exercised the power to prevent the abuse of process of the law. It is further submitted that the status of the petitioners are Kotwars and the land held by them are the Kotwari lands, therefore, by virtue of Section 183 of the C.G. Land Revenue Code, 1959 the petitioners cannot be declared the owner and could not exercise their right over the land. He therefore submits under the circumstances, the direction issued by the Joint Secretary dated 10.03.2014 is well merited.



8. I have heard learned counsel for the parties at length. Perused the documents.

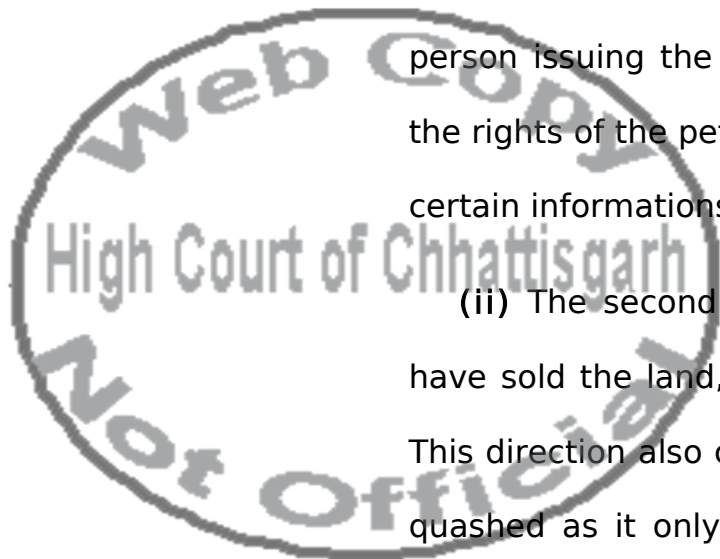
9. All the counsels have adopted the arguments advanced by the petitioners' counsel in W.P. No.782/2014 & W.P.(C) No.1515/2014. I have perused the documents. The direction given by the letter dated 10.03.2014 contains six directions.

(i) First direction contains that the information be gathered in terms of the departmental letter dated 21.04.2003 that how many Kotwars have been given the Bhoomiswami rights. This direction appears to be within the domain of the power of the person issuing the same and cannot be said to have affected the rights of the petitioners and calls for no interference as only certain informations are sought to be called for.

(ii) The second direction contains that how many Kotwars have sold the land, the information be gathered for the same. This direction also cannot be stated to be illegal or needs to be quashed as it only calls for the information in respect of the sale made by the Kotwars.

(iii) Third is with respect to the direction that the land if any sold by Kotwars, the documents in respect of those may be obtained from the Sub-Registrar. The aforesaid direction also is only to obtain the information, therefore, the same do not require any interference by this Court.

(iv) The direction contained in this clause is to the effect that pursuant to the earlier direction issued by the State on 21.02.2003 wherein Kotwars have been recorded as

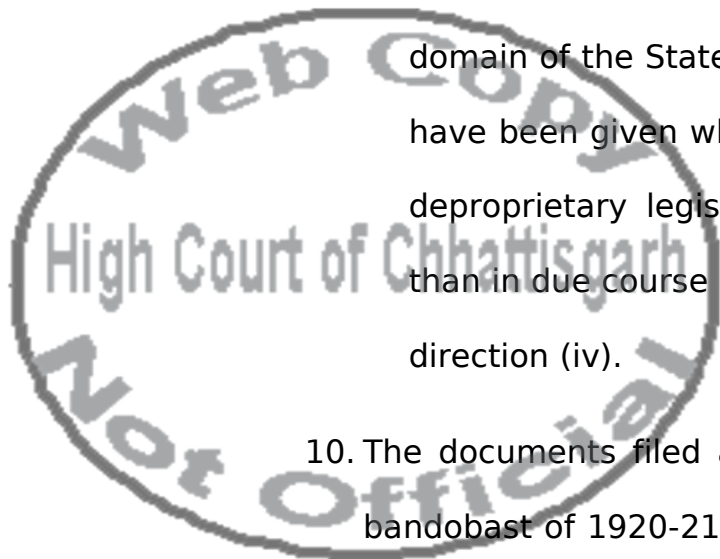


Bhoomiswami, the names be reverted from that of Bhumi Swami and it should be recorded as a service land in entirety. This direction appears to be an issue of concern.

(v) This direction contains that illegal transfer and mutation which has been made, the same be canceled and the possession may be taken over in respect of the land.

(vi) The last direction is with respect to the fact that if the purchasers do not adhere to the notice then the State Government should file a suit to recover the possession. Therefore, the directions except (iv) appear to be within the domain of the State and for rest of them only certain directions have been given which will not have a direct implication of any deproprietary legislation or to cause dispossession otherwise than in due course of law. The concerned issue pertains to only direction (iv).

10. The documents filed along-with the petition contains the Missal-bandobast of 1920-21 and few of the petition contains the Missal-bandobast of 1929-30. The said Missal-bandobast i.e. settlement would show that the lands were settled in favour of the predecessors of the petitioners. The land records also show that the possession of persons in respect of different lands and their names were mutated in the revenue records. Few of the records also show that the lands were initially held by Malguzars and part of them was given to the predecessor of the petitioners for the service rendered by them. The another set of paper enclosed would show that after coming into force of the Act of 1959, by the order of the revenue authority further lands were given to the



petitioners which made the addition of the land i.e. prior to 1959 i.e. before the C.G. Land Revenue Code, 1959 came into force. Therefore, two sources of devolution of property and holding came to fore. One source of devolution of right is precipitated prior to 1959 Land Revenue Code and after abolition of Jamindari by the Abolition Act, 1950. Another part of land come to the possession of petitioners while they were granted lands in lieu of service rendered by them as Kotwars as per Section 183 of the Land Revenue Code of 1959.

11. Now if we look into the Act of 1950, section 3 speaks about vesting of proprietary rights in the State. It says that for the area specified in the notification, all proprietary rights in estate, mahal, alienated village or alienated land, shall pass from other proprietor or other person and shall vest in the State free from all encumbrances. There is no dispute on the fact that the notification in this area of the Chhattisgarh region have been issued in the year 1951. Consequently, by Act of 1950 the aforesaid all lands and properties which find place at section 3 of the Act of 1950 vested in the State with certain exception.

12. In the Act of 1950, the relevant sections for the purpose would be Sections 41 & 45 before it was omitted by M.P. Act II of 1955, it was as under :

41. Except in such areas as the State Government may, by notification, exclude from the operation of this section, every absolute occupancy tenant who, at any time before the date of vesting or within six months therefrom, or such further period as the State Government may from time to time notify pays to the State Government an amount equal to three times the annual rent for the time being payable by him for his holding and every occupancy tenant who like *ise* pays to the State Government an amount equal to four times such rent, shall, on and from the date

of vesting or the date of such payment, whichever is later, be declared in the prescribed manner to be a malik-makbuza of the land compromised in his holding.

42. xxxxx

43. xxxxx

44. xxxxx

45. (1) Subject to the provisions of section 41 any person who immediately before the date of vesting was in possession of any holding as an absolute occupancy tenant or an occupancy tenant shall, on and from the date of vesting, be deemed to be a tenant of the State and shall hold the land in the same rights and subject to the same restrictions and liabilities as he was entitled or subject to immediately before the date of vesting.

(2) Any person holding land as village service land shall be deemed to be holding it from the State and shall be governed by the provisions contained in sections 42 to 48 of the Central Provinces Tenancy Act, 1920.

(3) Any person holding land other than *sir* land from the proprietor on favourable terms for service rendered by him shall from the date of vesting be declared to be an occupancy tenant of the State and the Deputy Commissioner shall fix the rent to be paid by him.

(4) xxxxxx

13. The records of Missal-bandobast i.e. settlement records show the name of the predecessors of the petitioners, therefore, primary presumption of the fact lies in favour of the petitioners that lands were settled in the name of the predecessors of the petitioners. The nature of holding cannot be governed by the foreign presumption that all the predecessors-in-title of the petitioners were holding the land as service land from 'State' against the revenue entries. If the provisions of sub-section (3) of section 45 is looked into, it shows that any person holding land other than *sir* land from the proprietary on a favourable term for the service rendered by him shall from the date of vesting be declared to be an occupancy tenant of the State and the Deputy Commissioner shall fix the rent to be paid by him. The *sir* lands are synonymous with the 'Kamat' and 'Zirat' and means of private land of the proprietor. The definition can be gathered from **AIR 1959 SC**

305 which clarifies as under-

The word 'Khudhasht means personal cultivation and that is neutral expression, which might include both private lands and 'bahkast land', that is to say raiyati lands which has come into possession of proprietor by surrender, abandonment or otherwise. The 'Kamat' land is, however, definite connotation and means private lands. The word 'Sir' is synonymous with Kamat & Zirat and means private lands of proprietor.

14. Therefore, if the land records of settlement of Missal bandobast of 1920-21 & 1929-30 are seen they suggest that the lands were held by the predecessors of the petitioners from the Jamindars and if the lands were not *sir* lands and were not given by the State as service land then in such case after the Act of 1950 came into force the possession of the predecessors would be rendered as occupancy of tenant of the State as per provision of section 45(3) of the Act of 1950. At this time, when the names of predecessors of petitioners were mutated and were held from Jamindars and the lands were settled in their favour the presumption of fact that it was legally done and presumption of correctness can be drawn.

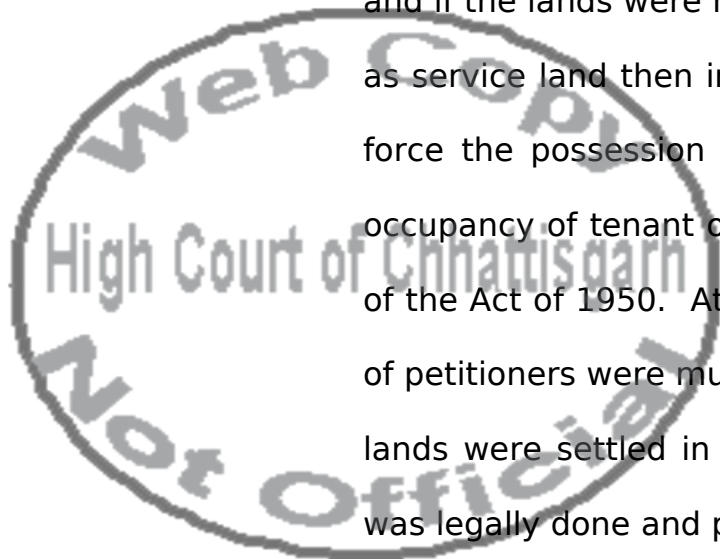
15. After the abolition of Zamindaries by the Act of 1950, the M.P. Land Revenue Code of 1954 would be relevant. The Act of 1954 with respect to land holding Chapter XII described two types of tenure holders, which reads as under :

A) Sec. 145. There shall be the following classes of tenure-holders of lands held from the State, that is to say :-

(i) Bhumiswami.

(ii) Bhumidhari.

16. The clause of 'Bhoomiswami' is defined under Sections 145, 146 & 147 of the Code of 1954, which reads as under :



B) Sec. 146. Every person, who at the coming into force of this Code belongs to any of the following classes, shall be called a Bhumiswami and shall have all the rights and be subject to all the liabilities conferred or imposed upon a Bhumiswami by or under this Code, namely :-

(a) every person in respect of land held by him as a malik-makbuza or a plot proprietor in the Central Provinces or the merged territories ;

(b) every person in respect of land lawfully held by him as house site in abadi in the Central Provinces or the merged territories;

(c) every person in respect of land held by him as a raiyat malik in the Central Provinces;

(d) every person in respect of land held by him as an absolute occupancy tenant in the Central Provinces;

(e) every person in respect of land held by him as an occupant in Berar;

(f) every person in respect of land held by him as an ante-alienation tenant or a tenant-antiquity in Berar in respect of which he has become lessee of the State under sub-section (2) of section 68 of the Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950.

C) Sec. 147. Every person who at the coming into force of this Code belongs to any of the following classes shall be called a Bhumidhari and shall have all the rights and be subject to all the liabilities conferred or imposed upon a Bhumidhari by or under this Code, namely :-

(a) every person in respect of land held by him as an occupancy tenant in the Central Provinces;

(b) every person in respect of land held by him as a raiyat or raiyat sarkar in the Central Provinces;

(c) every person in respect of land held by him as a raiyat or tenant in the merged territories;

(d) every person in respect of land held by him as a lessee of the State Government under sub-section (2) of section 68 of the Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 not falling under clause (f) of section 146.

17. In the instant case, the revenue records show that name of the predecessors of the petitioners were recorded by virtue of settlement and the nucleus is from Malgujars. If the effect of the Abolition Act 1950 is taken into account then in such case when the predecessors-in-title of the petitioners were holding the land from the Malguzars on favourable terms of service rendered by

him, then after the Act of 1950 came into force the position of them would be that of occupancy tenant. A general presumption cannot be drawn that the predecessors-in-title of the petitioners were holding the land as village service land from State against the mutation entries of the land record settlement that too without giving any opportunity of hearing to them.

18. After coming into force of the M.P. Land Revenue Code of 1959, perusal of Section 158 shows that it defines the Bhumiswami. The definition envelops the Bhumidhari to be within the demarcation of Bhumiswami in Mahakoshal region. Section 158 of the Code of 1959 for the sake of brevity is reproduced herein below :

158. Bhumiswami- [1] Every person who at the time of coming into force of this Code, belongs to any of the following classes shall be called a Bhumiswami and shall have all the rights and be subject to all the liabilities conferred or imposed upon a Bhumiswami by or under this Code, namely :-

(a) every person in respect of land held by him in the Mahakoshal region in Bhumiswami or Bhumidhari rights in accordance with the provisions of the Madhya Pradesh Land Revenue Code, 1954 (II of 1955);

19. The Mahakoshal region is defined under Section 2(49) of M.P. General Clause Act, 1957

(49) the expressions :-

(a) "Mahakoshal region" means the territories comprised immediately before the appointed day within the districts of Jabalpur, Sagar, Damoh, Mandla, Hoshangabad, Narsimhapur, Chhindwara, Seoni, Betul, Nimar, Raipur, Bilaspur, Durg, Bastar, Sarguja, Raigarh and Balaghat;

(b) xxxxx

(c) xxxxx

(d) xxxxx

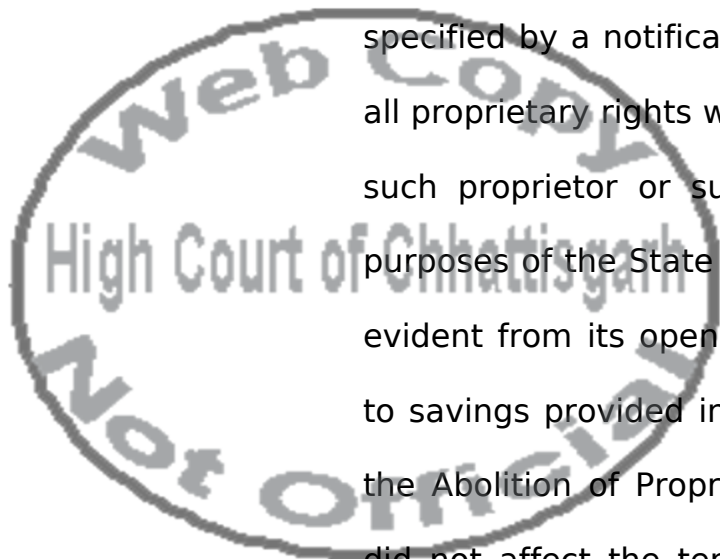
(e) xxxxx

20. The “Central Provinces” is defined in Section 2(a) of the Abolition Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950, which reads as under-

2. In this Act unless there is anything repugnant in the subject or context -

(a) “Central Provinces” means all the area in the State excluding the area comprised in the merged territories and in Berar ;

21. Reading of sub-section (1) of Section 3 of the Abolition of Proprietary Rights Act lays down that on and from a date to be specified by a notification by the State Government in this behalf, all proprietary rights which are enumerated therein shall pass from such proprietor or such person to and vest in State for the purposes of the State free of all encumbrances. This provision, as evident from its opening words has been expressly made subject to savings provided in the Act. A plain reading of section 45 of the Abolition of Proprietary Act 1950 would show that the rights did not affect the tenancy rights of absolute occupancy tenants and occupancy tenants created by the outgoing landlords. On the contrary, it guaranteed the continuity of absolute occupancy tenant and occupancy tenant by clothing them with the status of tenant under the State and conferring on them the same rights as were being enjoyed by them before the date of vesting. The words “in the same rights” occurring in sub-section (1) of section 45 are very significant. They leave no room for doubt that the absolute occupancy tenants and occupancy tenants were to continue to enjoy the rights which were enjoyed by them before the date of



vesting. It is noteworthy that section 239 of the Land Revenue Code 1954 did not destroy the rights enjoyed by the occupants. On the contrary it has fully protected and preserved the same. The words "all rights acquired" occurring in the said section of the Code are compressive enough to take in the rights acquired by the tenants under sections 45 to 47 of the Abolition of the Proprietary Rights Act.

22. Therefore, by joint reading of the same, it can be said that the predecessors of petitioners were holding the land in Mahakoshal region wherein the Act of 1950 and the Code of 1954 and the Code of 1959 were applicable. Consequently, if the lands were held by a person from a Malgujar or Jamindar i.e. proprietor on a favourable terms for service rendered by him shall become a occupancy tenant and thereafter, after coming of the Code of 1954, he would be Bhumidhari and after the Code of 1959 came into force then by virtue of Section 158 of the Code of 1959 they would become Bhoomiswamies in respect of the land held by them on the date when the Land Revenue Code of 1959 came into force.

23. Now the another source of devolution i.e. the service land which has been given to the petitioners as Kotwars of village by virtue of service rendered by them after the Code of 1959 came into being. Such rights shall be controlled and governed by section 183 of the Code of 1959.

24. The service land in the Code of 1959 is defined under Section 183, which reads as under :

183. Service land. - (1) Any person holding land on the condition of rendering service as village servant shall cease to be entitled to such land if he diverts such land to non-agricultural purposes.

(2) A transaction by which a village servant attempts to transfer his interest in his service land by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year, shall be void.

(3) If the holder of such land dies, resigns or is lawfully dismissed the land shall pass to his successor in office.

(4) The right of the holder in such land shall not be attached or sold in execution of a decree nor shall a receiver be appointed to manage such land under section 51 of the Code of Civil Procedure, 1908 (V of 1908).

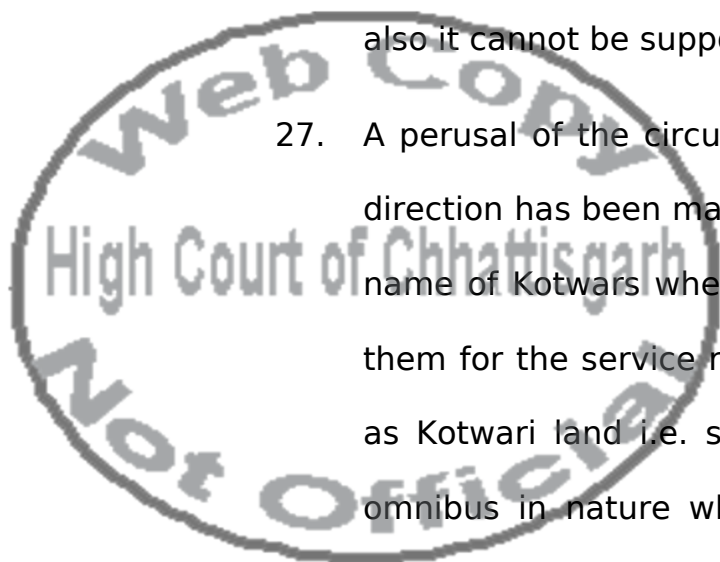
25. Reading of the aforesaid section would show that after the enactment of the Code of 1959, certain lands were given to the petitioners for the service being rendered by them as Kotwars. The said conferment of right u/s 183 of the Code of 1959 was different and distinct and was independent of the fact with respect to the lands held by the petitioners through their predecessors in title prior to 1950. Therefore, the source of conferment of right as on today on Kotwars – one is from their ancestors who were given the land through Malgujars, Jamindars proprietors for the service rendered by them prior to 1950 on favourable terms which matured into absolute right after the enactment of Code of 1959 and second source of conferment of right to hold the land in view of the service rendered by the Kotwars is under section 183 of the Code of 1959. The notification which has been issued by the State takes away the right in respect of the land owner over which the right of Bhumiswami had already accrued. Consequently, the land given to a Kotwar for the service rendered by him u/s 183 of the Code of 1959 cannot be amalgamated and cannot be thrown into



common pool as it may have an affect of deprivation of their right, over which the Bhumiswami right had already accrued.

26. Article 300-A creates a right in favour of a person that he should not be deprived of his property save by the authority of law. When the citizen is deprived of his belongings otherwise than in accordance with provisions prescribed under the law, it cannot be said that the said deprivation was brought about by officers of the State while acting and discharging sovereign function of the State as Article 300-A prohibits depriving any person of his property without authority of law. Even if the deprivation is temporary then also it cannot be supported unless it is according to law.

27. A perusal of the circular especially the direction (IV) wherein the direction has been made to the effect that the land mutated in the name of Kotwars whether it is Bhumiswami or has been given to them for the service rendered as a Kotwar should all be recorded as Kotwari land i.e. service land. Such directions appear to be omnibus in nature which do not demarcate or differentiate the private land held by a Kotwar as Bhumiswami in his individual capacity and the land held in the capacity of Kotwar for rendering the service in the village. Therefore, the respondent State has decisively broke its own past of circular rendering it Porus with respect to the rights of the petitioner. At the heart of the conflict, the issue remains that of land held by the petitioner as owner thereof through their predecessors-in-title and the land conferred on them by virtue of service rendered by them as Kotwars. The omnibus direction therefore to record all the lands held by the Kotwars as Kotwari land i.e. service land would amount to



assuming the executive authority to make a departure from Article 300-A of the Constitution of India.

28. Now with respect to the authority to issue such circular by a Joint Secretary, the power to issue such directions in the nature has to be considered. The functioning of the government in a State is governed by Article 166 of the Constitution which lays down that there shall be Council of Ministers with the Chief Minister as the head to aid and advise the Governor in exercise of his functions except where he is required to function. Referring to Article 166 of the Constitution, the Supreme Court in *State of Bihar v. Kripalu Shankar (1987) 3 SCC 34* held thus :

"14. Now, the functioning of government in a State is governed by Article 166 of the Constitution, which lays down that there shall be a council of ministers with the Chief Minister at the head, to aid and advise the Governor in the exercise of his function except where he is required to exercise his functions under the constitution, in his discretion. Article 166 provides for the conduct of government business. It is useful to quote this article :

166 (1) All executive actions of the government of a State shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(3) The Governor shall make rules for the more convenient transaction of the business of the government of the State, and for the allocation among Ministers of the said business insofar as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.”

29. Article 166 (1) requires that all the executive action of the State Government shall be expressed to be taken in the name of Governor. It prescribes the mode in which an executive action has to be executed. When a letter issued by the Joint Secretary of the State has an effect of deproprietary legislation, then certainly it has to stand the test under Article 300-A and Article 166(1) of the Constitution. Article 300-A ensures that a person cannot be deprived of his property by an executive fiat and it can be done only in accordance with law. Further an executive order depriving a person of his property, without backed by law is not constitutionally valid. The Supreme Court in State of *Bihar v. Kripalu Shankar (supra)* has laid down the mode in which the executive action has to be expressed. It has been laid down that noting by an official will not come within this Article and has laid down when it takes the form of an order it has to comply with the order of Article 161. Article 166(2) states that the orders and other instruments made and executed under Article 166(1) shall be authenticated in the manner prescribed. While clause (1) relates to mode of expression, clause (2) lays down the manner in which the order is authenticated and Clause (3) relates to making of the rules by Governor for more convenient transaction of the

business of the Government.

30. Applying the aforesaid principles in the case in hand, it makes it clear that the direction which has a deproprietary legislation has to be in conformity with the Article 166 of the Constitution of India.
31. In the instant case, initially the directions were issued by the State in the year 2003 in view of the judgment passed in W.P. No.2632 & 2064 of 2000 on 03.05.2001 which is filed as Ex.P-7. The said judgment was not subject of any challenge. In the said judgment, this Court has directed on the basis of fact that the lands held by the Kotwars were not the service lands as such Bhumiswami rights be granted to them in accordance with law. The State did not challenge the same instead in compliance thereof, the direction was issued. The facts would suggest that the State Government has initially complied the same but subsequently has withdrawn the notification which has an affect of depriving the Kotwars in respect of the those lands on which their Bhumiswami rights were fortified. Therefore, if such deprivation of the right is made by such direction, it has to be with the legislative support qua the source of power.
32. The Supreme Court in **(2011) 12 SCC 94** has explained the parameters of the Executive Powers as to how it is exercised which reads as under:

“49. It is trite to say that all executive actions of the Government of India and the Government of a State are required to be taken in the name of the President or the Governor of the State concerned, as the case may be (Articles 77(1) and 166(1)). Orders and other instruments

made and executed in the name of the President or the Governor of a State, as the case may be, are required to be authenticated in such manner as may be specified in the rules to be made by the President or the Governor, as the case may be (Articles 77(2) and 166(2)).

50. Article 77(3) lays down that :

“77. (3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business.”

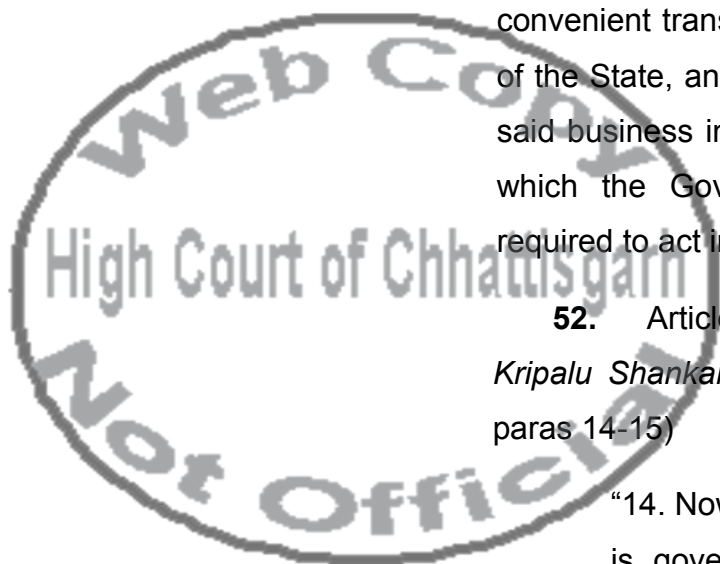
51. Likewise, Article 166(3) lays down that :

“166. (3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business insofar as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.”

52. Article 166 was interpreted in *State of Bihar v. Kripalu Shankar* and it was observed : (SCC pp. 43-44, paras 14-15)

“14. Now, the functioning of Government in a State is governed by Article 166 of the Constitution, which lays down that there shall be a Council of Ministers with the Chief Minister at the head, to aid and advise the Governor in the exercise of his functions except where he is required to exercise his functions under the Constitution, in his discretion. Article 166 provides for the conduct of government business. It is useful to quote his article:

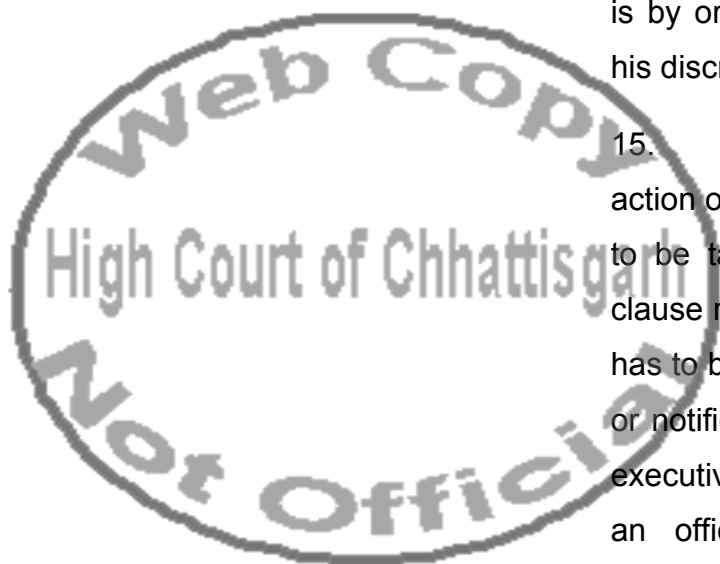
'166. *Conduct of business of the Government of a State.* - (1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.



(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business insofar as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.'

15. Article 166(1) requires that all executive action of the State Government shall be expressed to be taken in the name of the Governor. This clause relates to cases where the executive action has to be expressed in the shape of a formal order or notification. It prescribes the mode in which an executive action has to be expressed. Noting by an official in the departmental file will not, therefore, come within this article nor even noting by a Minister. Every executive decision need not be as laid down under Article 166(1) but when it takes the form of an order it has to comply with Article 166(1). Article 166(2) states that orders and other instruments made and executed under Article 166(1), shall be authenticated in the manner prescribed. While clause (1) relates to the mode of expression, clause (2) lays down the manner in which the order is to be authenticated and clause (3) relates to the making of the rules by the Governor for the more convenient transaction of the business of the Government. A study of this



article, therefore, makes it clear that the notings in a file get culminated into an order affecting right of parties only when it reaches the head of the department and is expressed in the name of the Governor, authenticated in the manner provided in Article 166(2).”

53. It is thus clear that unless an order is expressed in the name of the President or the Governor and is authenticated in the manner prescribed by the rules, the same cannot be treated as an order made on behalf of the Government. A reading of the Letter dated 6-12-2001 shows that it was neither expressed in the name of the Governor nor was it authenticated in the manner prescribed by the rules. That letter merely speaks of the discussion made by the Committee and the decision taken by it. By no stretch of imagination the same can be treated as a policy decision of the Government within the meaning of Article 166 of the Constitution.”

33. Applying the aforesaid principles in the instant case, the omnibus direction to mutate all the lands held by Kotwars as a service land/ Kotwari land cannot therefore be sustained. The State Government, however, has right to restrict the use of land in terms of section 183 of the Code of 1959 to the Kotwars which were granted to them for rendering service but for the fact that a Kotwar holds a land as a Bhumiswami will not change the status of that land for the reason that he is a 'Kotwar'. Therefore, there cannot be a general direction to revert back the revenue records and register the entire lands held by Kotwars as Kotwari lands. Consequently the direction (iv) contained in letter dated 10th March 2014 which takes away the right of Kotwars amounts to deproprietary in nature and without any authority of law. Further more, the direction that the possession of the lands be taken back



cannot be sustained as no person can be dispossessed from his possession except only in accordance with law.

34. As a result of the aforesaid discussion, it is held that the direction given in circular issued by Joint Secretary dated 10.03.2014 i.e. the clause (iv) being without authority of law is quashed and cannot be given effect to. It is further directed that the State Government shall not dispossess any Kotwar from his possession of the land otherwise than in due course of law.

35. It is further observed that the State Government, if so advised, shall be free to make an enquiry with respect to the nature of holding of land by Kotwars to determine and carve out the Bhumiswami holding lands and service land separately.

36. It is further directed that on such enquiry if the right of Bhumiswami is found to be accrued in favour of the petitioners Kotwars in terms of provisions of Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950, the Bhumiswami right is to be conferred on the petitioners and with respect to the service lands, the rights would be governed by the provisions of Section 183 of C.G. Land Revenue Code, 1959. With such observations/direction, these petitions stand allowed.

Sd/-

**GOUTAM BHADURI
JUDGE**