NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1323 of 2015

Tukaram Naagdaune S/o Shri Dharmaji Naagdaune Aged About 77 years R/o Naagdaune Colony Talapara, Bilaspur, Police Station Civil Lines, Tahsil Bilaspur, Revenue District Bilaspur, District Bilaspur 495001 Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Government Of Chhattisgarh Department Of Home, Mahanadi Bhawan, Mantralaya, Naya Raipur 492 001 Chhattisgarh.

2. Commissioner, Revenue Division Bilaspur Civil And Revenue District Bilaspur, Chhattisgarh.

3. Collector, Civil And Revenue District Bilaspur, Chhattisgarh.

4. Sub Divisional Officer, Civil And Revenue District Bilaspur, Chhattisgarh.

5. Tahsildar, Tahsil And District Bilaspur, Chhattisgarh.

6. Commissioner, Municipal Corporation Bilaspur, Tahsil And District- Bilaspur , Chhattisgarh.

7. Superintendent Of Police, Bilaspur, Tahsil And District Bilaspur, Chhattisgarh.

8. Station House Officer, Police Station - Civil Lines Bilaspur, Chhattisgarh.

9. Smt. Rudrani Devi W/o Narayan Prasad Vajpai Aged About 72 Years R/o Gondpara, Beside River, Bilaspur 495 001 Chhattisgarh.

10. Smt. Uma Bajpai W/o Late Shri Ambika Prasad Bajpai Aged About 60 Years R/o Vinoba Nagar, Bilaspur Tahsil And District Bilaspur, Chhattisgarh.

11. Mahendra Bajpai S/o Shri Shambhu Prasad Bajpai Aged About 67 Years R/o Shubhash Nagar, Bilaspur, Tahsil And District - Bilaspur, Chhattisgarh.

12. Ritu Tiwari W/o Vikas Tiwari Aged About 35 Years R/o Motilal Neharu Nagar East Bhilai, Tahsil And District- Durg, Chhattisgarh.

13. Rahul Bajpai S/o Late Shri Rohini Kumar Bajpai Aged About 57 Years R/o Jail Road, Behind Head Post Office, Bilaspur, Tahsil And District - Bilaspur, Chhattisgarh.

---- Respondents

Shri Dhiraj Wankhede, counsel for the petitioner/s.

Shri R.K.Gupta, Dy.A.G. for the State.

Shri B.L.Sahu, counsel for respondent No.6.

Order On Board

31/07/2015

The petitioner, by this writ petition under Article 226 of the Constitution of India, has prayed to direct the private respondents to vacate petitioner's land encroached by the respondent and hand it over to the petitioner. The petitioner has also prayed for direction to the respondents to make a fair demarcation of the land of the petitioner and submit report before this Court. In addition, the petitioner has prayed for direction for payment of compensation for encroachment done by the respondent on petitioner's land.

2. On petitioner's own showing, the petitioner has filed a Civil Suit against respondent No.9 seeking permanent injunction on the pleading *inter alia* that respondent No.9 is threatening and the petitioner / plaintiff is apprehending dispossession and on this basis, has prayed for a decree of permanent injunction.

3. Learned counsel for the petitioner submits that the Civil Court granted temporary injunction in favour of the petitioner / plaintiff. However, in breach of injunction order, respondent No.9, during pendency of the suit, sold the property to third party- respondent No.13. Therefore, in these circumstances, a direction be issued to the State authorities to carry out demarcation to specify the land of the petitioner and that of respondent No.9 in order to find out as to which is the land of the petitioner and that of respondent No.9 or his successor, respondent No.13.

4. The petition is wholly misconceived in law. The dispute is essentially between the two private parties, one being the petitioner and the other being respondent No.9 and its purchasers. The matter is subjudice before the Civil Court. There is an order of temporary injunction passed by the Civil Court. If the petitioner is aggrieved that his land has been sold by respondent No.9 in breach of injunction order, his remedy lies before the concerned Court. This Court, in exercise of writ jurisdiction, will not step into factual enquiry with regard to the dispute of title / possession between two parties. The petition is therefore dismissed.

5. It is made clear that this Court has not commented upon the merits or demerits of the rights of the parties in the pending Civil Suit.

Sd/-
Manindra Mohan Shrivastava
Judge

Deepti