

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2212 of 2012

1. Amarnath Agrawal S/o Ramavatar Agrawal, Aged About 44 years, R/o 04 Mahanadi Vistar Complex, Near Ghantaghar, Korba, PO Korba, Main PS OP Rampur Of Kotwali Korba, Distt Korba, Cg

---- Petitioner

Versus

1. Shanti Enggicon Private Ltd., Reg Office At Shanti Niwas In Front Of Agrasen Bhawan, Agrasen Road, Korba, Police Station, Post Office, Tahsil & District : Korba, Chhattisgarh. Through its Director Rohit Agrawal, S/o Jai Singh Agrawal, aged about 25 years, in front of Agrasen Bhawan, Agrasen Road, Korba, Police Station, Post Office, Tah. & Dist. Korba (C.G.)
2. State Of C.G. Through District Collector Korba, Collectorate Korba, Police Station, Post Offic, Tahsil & Distt Korba, (C.G.)

---- Respondents

For Petitioner:	Shri Alok Baxi, Advocate
For Respondent No.1:	Shri Alok Gupta, Advocate
For Respondent No.2:	Shri Adhiraj Surana Dy.GA

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

13/08/2015

On 18.10.2012 respondent No.1/plaintiff filed a suit against the State Government for declaration, permanent injunction and damages, praying that it is a registered company having its show room on the land purchased by it, but the State Government is un-necessarily trying to interfere with the possession of the petitioner on the ground that respondent No.1/plaintiff has encroached upon the land. On 31.10.2012 the petitioner herein filed an application before the trial Court under Order 1 Rule 10 read with Section

151 CPC praying that at his instance the revenue proceedings were initiated against respondent No.1/plaintiff wherein it was found that the petitioner had encroached on certain government land and therefore he is a necessary party for the decision of the suit. By impugned order dated 4.12.2012 the trial Court rejected the application filed by the petitioner under Order 1 Rule 10 read with Section 151 CPC holding that in the suit respondent No.1/plaintiff had not claimed any relief against the petitioner and all his reliefs are against the State Government and therefore for final adjudication of the matter petitioner is not a necessary party. In this petition the petitioner has also challenged the order dated 19.10.2012 passed by the trial Court on the application filed by respondent No.1/plaintiff directing the parties to maintain status quo.

2. Counsel for the petitioner submits that present is a case where valuable government land has been illegally encroached upon by the respondent No.1/plaintiff and it is the petitioner who had brought the illegalities on the surface and once on account of the petitioner revenue proceedings have been initiated against respondent No.1/plaintiff, he is a necessary party in the civil suit as well. He submits that in connivance with the government officials respondent No.1/plaintiff has been protected and unless the petitioner is heard by the civil Court, there is every possibility that the respondent No.1/plaintiff may succeed in the suit. He submits that in the facts and circumstances of the case the Court below has erred in law in rejecting the application filed by the petitioner under Order 1 Rule 10 read with Section 151 CPC. He further submits that once the encroachment has been made by respondent No.1/plaintiff, order granting status quo is also bad in the eye of law.

3. On the other hand supporting the orders impugned it has been argued

by the counsel for respondent No.1/plaintiff that the orders impugned are strictly in accordance with law and there is no infirmity in the same.

4. In the civil suit no relief has been claimed against the petitioner and whatever relief is claimed it is against the State Government. Respondent No.1/plaintiff has not even referred to any such complaint allegedly made by the petitioner. After considering the basic ingredients of Order 1 Rule 10 CPC the Court has come to the conclusion that the petitioner is not a necessary party in the suit. Further, the status quo order has been passed in the suit between the plaintiff and the defendant and once the petitioner is not a necessary party the same is also bad in the eye of law. In this view of the matter, there is no illegality in the orders impugned and they are accordingly maintained.

5. Petition thus being without any substance is hereby dismissed.

Sd/-

(Pritinker Diwaker)
Judge

Jyotishi