

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1248 of 2015

- Bhaagi Bai W/o Late Shri Thakur Ram Aged About 84 years Resident Of Chakarbhata Camp, Police Station Chakarbhata, Tehsil Bilha, District Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through, Secretary Department Of Minerals, Mantralaya, Mahanadi Bhawan, Naya Raipur, Tehsil, Post And Thana Naya Raipur (Chhattisgarh) 492002
2. Bodri Nagar Panchayat, Through Its Chief Municipal Officer, Tehsil Bilha, District Bilaspur (Chhattisgarh)
3. District Collector Bilaspur, District Bilaspur (Chhattisgarh)
4. Sub Divisional Magistrate, Bilha, Tehsil Bilha, District Bilaspur (Chhattisgarh)
5. Tahsildar, Tehsil Bilha, District Bilaspur (Chhattisgarh)

---- Respondents

For Petitioners.	: Shri Sunil Otwani, Advocate
For Respondents No 1, 3, 4, 5.	: Shri Satish Gupta, Govt. Advocate

Order On Board

21/07/2015

Heard.

This petition has been preferred by the petitioner aggrieved by an order of compensation dated 2.2.2015 followed by warrant of dispossession in proceedings under Section 248 of Land Revenue code.

2. Learned counsel for the petitioner submits that earlier when an attempt was made to demolish the structure and dispossess the petitioner on the allegation of encroachment, a writ petition was filed by the petitioner. In that writ petition, the respondent came out with the reply that during the pendency of the petition, proceedings under Section 248 of the Land Revenue Code were drawn and order of dispossession was passed in respect of Kasra No. 71/2 admeasuring 675

sq. feet. Taking note of the aforesaid fact, Writ Petition (C)No. 1276/14 was disposed of on 29.06.2015 giving liberty to the petitioner to challenge the order of dispossession. Therefore, now the petitioner has filed this petition to challenge the order of dispossession.

3. Learned counsel for the petitioner submits that the alternative remedy of statutory appeal before SDO (Revenue) would be illusory because the SDO (Revenue) Bilha has already prejudiced the issue. In the earlier round of litigation, the return was filed by the same SDO taking specific stand against the petitioner that he has encroached, therefore, the proceeding have been drawn.

4. The controversy with regard to encroachment are essentially in the realm of fact finding enquiry. The impugned order of Thasildar shows that show cause notice was given to the petitioner and when he was not present on 7.11.2014, ex-parte proceedings were drawn and on a finding that the petitioner had encroached, the order of dispossession has been passed. Therefore, it would be proper that the petitioner should avail his statutory remedy of appeal.

5. Taking into consideration the submission made by learned counsel for the petitioner that the SDO(Revenue) Bilha had earlier filed return in the case, it would be proper that the Collector, Bilaspur transfers the appeal of the petitioner, in exercise of powers under the Land Revenue Code, to any Revenue Officer other than SDO (Revenue), Bilha.

6. With the aforesaid observation this petition is finally disposed off.

Sd/-

Manindra Mohan Shrivastava

Judge