

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 326 of 2015**

Satish Kumar Agrawal S/o Ganesh Prasad Agrawal Aged About 35 Years R/o Ward No. 3, Jagdishpur Road, Thana & Tahsil Basna, District Mahasamund (Chhattisgarh).

---- Appellant

Versus

1. State Of Chhattisgarh through, The Secretary, Department Of Urban Administration, Mahanadi Bhavan, Mantralaya, New Raipur, District-Raipur (Chhattisgarh).
2. Collector, Mahasamund District - Mahasamund (Chhattisgarh)
3. Sub Divisional Officer (R) Sub Division Saraipali, District Mahasamund (Chhattisgarh)
4. Chief Municipal Officer, Nagar Panchayat Basna, District - Mahasamund (Chhattisgarh)

---- Respondents

For Appellant:

Shri Kishore Narayan, Advocate

For Respondents/State:

Shri B. Gopa Kumar, Dy. Advocate
General.**Hon'ble The Chief Justice****Hon'ble Shri Justice P. Sam Koshy****Order On Board**Per **Navin Sinha, Chief Justice****21/09/2015**

1. Notice issued to Respondent No.4 has been served both by ordinary and registered modes. In absence of any representation, we had suo motu adjourned the matter on 15.9.2015 to facilitate one more opportunity for entering appearance. Today also, no one appears on behalf of Respondent No.4.

2. The present appeal arises from order dated 25.3.2015 disposing Writ Petition (C) N0.510/2015 with directions to dispose the Appellants' representation contending that he was not an encroacher. In the event that he was found to be an encroacher, the authorities were at liberty to proceed in accordance with law.

3. Learned Counsel for the Appellant submits that on 5.5.2015, he has filed a detailed representation before Respondent No.4 enclosing documents of title in support of his being in lawful occupation of the lands in question identified as Khasra No.64/2 having an area of 4371 sq.ft in Basna Nagar Panchayat, District Mahasamund. The authorities have not disposed or considered the representation till today even while they continue to threaten forcible demolition of his residential house.

4. Learned Counsel for the State submits that if the Appellant has filed a representation along with documents, Respondent No.4 may be directed to consider the same and pass appropriate orders in accordance with law, as directed by the Learned Single Judge.

5. We have heard Learned Counsel for the Appellant and the State.

6. The records of the Writ Petition reflect that no counter affidavit had been filed by Respondent No.4 as the Writ Petition came to be disposed on the first day itself. In absence of Respondent No.4 having entered appearance to assist in the matter, we are left with no option but to dispose the Writ Petition with directions to decide his representation by a reasoned and speaking order keeping in mind the dictum that complicated questions of title cannot be adjudicated in summary proceedings like the present, as observed in (1982) 2 Supreme Court Cases 134 (Government of Andhra Pradesh vs. Thummala Krishna Rao and Another).

7. The Appeal stands disposed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE