

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 211 of 2007**

M/s. Kathoor Mining Tools Through its proprietor namely Surendar Jeet Kathoor, W/o Kuldeep Singh, aged about 62 years, R/o Ambikapur, District-Surguja (CG).

---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary, Trade and Industries Department, DKS Bhawan, Raipur (CG).
2. General Manager District Trade And Industries Centre, Ambikapur, Ambikapur, Tahsil-Ambikapur, District-Surguja,
3. Sub Divisional Magistrate Ambikapur, District-Surguja (CG).
4. Deputy Director Industries Directorate C.G., Raipur, Raipur, Tahsil-Raipur, District-Raipur (CG).
5. Commissioner Industries Directorate C.G., Raipur, Raipur, Tahsil-Raipur, District-Raipur (CG).
6. Assistant Director, Industries, Ambikapur, Surguja, Distt. Surguja (CG).

---- **Respondents**

For Petitioner	:	Shri Manoj Parajpe, Advocate.
For respondent/State	:	Shri Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

18/10/2016

1. The present petition under Section 226 of the Constitution of India has been preferred assailing the letter dated 30.12.2006 (Annexure P/5) whereby the Commerce and Industries Department, District Surguja, has issued a letter to the petitioner with a direction to hand over the vacant land of the property which was otherwise provided to the petitioner for industrial purpose on a lease for a period of 99 years w.e.f. 02.08.1980 to

01.08.2079.

2. Learned counsel appearing for the petitioner submits that the respondent authorities before issuance of letter dated 30.12.2006 (Annexure P/5) has not conducted any sort of inquiry or investigation so as to determine whether the petitioner infact has violated the lease conditions or the petitioner has not established any industrial establishment on the said premises provided on lease to the petitioner. It was next submitted that the petitioner is also ready to face any sort of enquiry in this regard which the respondent may conduct even as on date for the reason that still the petitioner is in exclusive possession of the said property and he is operating his business and has established the industrial unit and that no land is lying unused.
3. On the other hand, the State counsel opposes the petition on the ground that the petitioner have been issued with a notice that vacant portion of the land which is in his occupation has been asked to hand over only that portion of land and no prejudice is going to be caused to the petitioner by issuance of said letter and therefore, the petition deserves to be dismissed.
4. Having heard the rival contentions put forth on either side and on perusal of the records, what clearly reflects is that in the reply, the State has taken a stand that the petition is premature to the extent that the petitioner has not approached the authorities by way of a representation or an appeal as per the rules, and therefore, the petition deserves to be dismissed. Neither does it show that the respondents before issuance of the impugned notice had conducted any sort of an enquiry in respect of contents of the notice or in respect of any breach of condition to the lease

deed.

5. Having heard the counsel for the parties and also on perusal of the reply of the State, this court is of the opinion that since from the date of grant of lease the land in dispute is in possession of the petitioner and he has also established an industrial unit as per his pleadings and the fact that by virtue of interim order granted by this court on 13.02.2007, the petitioner is still enjoying the status quo against the order/letter impugned, in the light of the peculiar facts and circumstances of the case, ends of justice would meet if the respondent authorities conduct a physical verification of the premises in possession of the petitioner and hold an enquiry after giving full opportunity of hearing to the petitioner and thereafter reach to the conclusion firstly as to whether there is any breach of lease condition attached to the lease deed and secondly whether the petitioner is using the land/property for industrial purpose or not and thereafter to pass a fresh speaking order and lastly as to whether any strong case has been made out for taking possession of the said premises. As of now they shall not act upon the impugned notice any further.
6. It is ordered accordingly.
7. Needless to mention that the petitioner shall be at liberty to avail the remedy whatever be available to him if aggrieved by the said speaking order to be passed by the respondent authorities.
8. With the aforesaid observations, the writ petition stands disposed of. No order as to costs.

Sd/-
(P.Sam Koshy)
Judge