

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1976 OF 2012**

Shailendra Nath Dubey S/o Late Shri Rambriksha Dubey Aged About 46 Years Resident of Pratappur Naka, Ambikapur P.S. Ambikapur District Surguja C.G.

---- **Petitioner****Versus**

1. State of Chhattisgarh through Secretary Department of Revenue D.K.S. Bhawan Raipur District Raipur C.G.
2. Collector Ambikapur District Surguja C.G.
3. Nazul Officer Ambikapur District Surguja C.G.
4. Tahsildar Ambikapur Dist. Surguja C.G.
5. Commissioner Municipal Corporation, Ambikapur District Surguja C.G.

----**Respondents**

For Petitioner : Mr. Rahul K. Mishra, Advocate
 For Respondent/State : Mr. Ramakant Mishra, Deputy Advocate General

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****21/03/2016**

1. Though there is application for vacating stay order. With the consent of parties, the matter is heard finally.
2. Petitioner claims to be in possession of the land in dispute since long and he submits that a dwelling house had been constructed earlier. The respondent authority had initiated proceeding for demolition and Writ Petition (C) No. 6424/2006 was filed, which was disposed of vide order dated 12/07/2010 recording statement of the State counsel that the petitioner's application for grant of lease shall be considered and decided in accordance with law at the earliest, preferably within a period of four weeks from the date of receipt of a copy of the order.
3. The grievance of the petitioner, who led him to file this second petition is that despite Court's direction, no decision has been taken on his

application and again he is apprehending for demolition of the construction.

4. Learned State counsel submits that a communication has already been made by the Collector on 07/01/2013 forwarding petitioner's case for grant of lease and the matter is pending with the State Government.

5. Learned counsel for the petitioner submits that though the petitioner prayed for grant of lease of the land in question, on which he is in possession and constructed house but proposal of Collector in respect of some other land.

6. Be that as it may, the earlier order was passed by this Court long back on 12/07/2010. Five and half years has already been lapsed. Collector's letter dated 07/01/2013 shows that competent authority has forwarded petitioner's claim to the State Government with his own comments for decision because the State Government is competent authority. Therefore, the petitioner's claim should be considered by the State Government within a reasonable time and it is unfortunate that despite Court's intervention, no decision has been taken for more than five years.

7. In these circumstances, instead of keeping this matter pending, it would be in interest of justice to finally dispose of the matter with direction to consider the petitioner's claim and decide his application for grant of lease within a period of three months. At this stage, it may be clarified that the petitioner is claiming for grant of lease on the land where construction is made whereas Collector has forwarded case for grant of lease in respect of some other land.

8. It would be open for the State Government to first decide the petitioner's claim in respect of land where petitioner claims to have raised construction. It is only when the claim is rejected, the State Government may consider the Collector's proposal for grant of lease in respect of some other

land. It is expected from the respondent authority that this time, order of this Court shall be complied with within the time stipulated.

9. Till decision is taken in the matter, interim order passed by this Court earlier shall continue.

10. With the aforesaid directions, petition is disposed off.

Sd/-

(Manindra Mohan Shrivastava)
JUDGE

Tiwari