

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 945 of 2016

Maheshwar Prasad Sahu S/o Late Shri Ratan Lal Sahu, Aged About 53 Years
R/o Village Adbhar, Ward No. 10, Tahsil Malkharouda, District Janjgir
Champa (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Urban And Rural Administration, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. The Collector, District Janjgir Champa (Chhattisgarh)
3. Nagar Panchayat, Adbhar, Through : The Chief Municipal Officer, Nagar Panchayat, Adbhar, District Janjgir Champa (Chhattisgarh)
4. Chief Municipal Officer, Nagar Panchayat Adbhar, District Janjgir Champa (Chhattisgarh)

---- Respondents

And

WPC No. 947 of 2016

Ayodhya Prasad Shukla S/o Late Shri Dukhu Ram Shukla, Aged About 55
Years Occupation Lecturer, Govt. High School, Podibahar, Korba, District
Korba (Chhattisgarh), R/o Village Adbhar, Ward No.2, Tahsil Malkharouda,
District Janjgir Champa, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Urban And Rural Administration, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
2. The Collector, District Janjgir Champa, (Chhattisgarh)

3. Nagar Panchayat, Adbhar, Through: The Chief Municipal Officer, Nagar Panchayat, Adbhar, District Janjgir Champa, (Chhattisgarh)
4. Chief Municipal Officer, Nagar Panchayat Adbhar, District Janjgir Champa, (Chhattisgarh)

---- Respondents

And

WPC No. 948 of 2016

Radhelal Shukla S/o Late Shri Gajendra Shukla, Aged About 66 Years R/o Village Adbhar, Ward No. 2, Tahsil Malkharouda, District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Urban And Administration, Mahandi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh
2. The Collector, District Janjgir Champa Chhattisgarh
3. Nagar Panchayat, Adbhar, Throgh The Chief Municcipal Officer, Ngar Panchayat, Adbhar, District Janjgir Champa Chhattisgarh
4. Chief Municipal Officer, Nagar Panchayat Adbhar, District Janjgir Champa Chhattisgarh

---- Respondents

And

WPC No. 902 of 2016

Nandkishore Tiwari S/o Late Shri Yadunandan Prasad Tiwari, Aged About 85 Years R/o Village Adbhar, Tahsil Malkharouda, District Janjgir Champa (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Urban And Rural Administration, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. The Collector, District Janjgir Champa (Chhattisgarh)
3. Nagar Panchayat, Adbhar, Through : The Chief Municipal Officer, Nagar Panchayat, Adbhar, District Janjgir Champa (Chhattisgarh)
4. Chief Municipal Officer, Nagar Panchayat Adbhar, District Janjgir Champa (Chhattisgarh)

---- Respondents

And

WPC No. 903 of 2016

Nand Kumar Tiwari S/o Late Jagannath Prasad Tiwari, Aged About 75 Years
R/o Village Adbhar, Tahsil Malkharouda, District Janjgir Champa,
(Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Urban And Rural Administration, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
2. The Collector, District Janjgir Champa, (Chhattisgarh)
3. Nagar Panchayat, Adbhar, Through The Chief Municipal Officer, Nagar Panchayat, Adbhar, District Janjgir Champa, (Chhattisgarh)
4. Chief Municipal Officer, Nagar Panchayat, Adbhar, District Janjgir Champa, (Chhattisgarh)

---- Respondents

And

WPC No. 909 of 2016

Nand Kumar Tiwari S/o Late Jagannath Prasad Tiwari, Aged About 75 Years
R/o Village Adbhar, Tahsil Malkharouda, District Janjgir Champa,
(Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Urban And Rural Administration, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
2. The Collector, District Janjgir Champa, (Chhattisgarh)
3. Nagar Panchayat, Adbhar, Through: The Chief Municipal Officer Nagar Panchayat, Adbhar, District Janjgir Champa (Chhattisgarh)
4. Chief Municipal Officer, Nagar Panchayat Adbhar, District Janjgir Champa, (Chhattisgarh)

---- Respondents

For respective Petitioners	:	Shri Anand Shukla and Shri Mateen Siddiqui, Advocates
For Respondent-State	:	Shri Satish Gupta, Govt. Advocate
For Respondent-Nagar Panchayat, Adbhar	:	Shri Vinay Pandey, Advocate

S.B. :Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/04/2016

1. The aforesaid petitions are being disposed off by this common order as they all arise out of proceedings of widening of road in the same township of Nagar Panchayat-Adbhar, District – Janjgir Champa and apprehension of forcible dispossession of the petitioners.

2. Learned counsel for the petitioners in the aforesaid petitions raised common argument that the petitioners are either title holders by virtue of registered sale deed executed in their favour or allottees of land. It is submitted that in demolition drive actuated by the scheme of widening of road, respondent-authority are proceeding to demolish without carrying out any demarcation and factual report of any encroachment on the open road beyond length and width of the land/plot in the ownership/allotment of the petitioners.
3. Learned counsel for the parties submits that the petitioners are having their shops/dwelling houses since long years. There are no orders of eviction passed by any competent authority on proof of any encroachment by the petitioners.
4. Learned counsel for respondents- Nagar Panchayat Adbhar, upon instructions, submits that in order to widen the road, earlier many of the petitioners had agreed to give up the land, but now they all have started raising objection. He, however, submit that in view of large number of objections and petitions which are being filed, these petitions may be disposed off with direction to authority to carry out demarcation to find out encroachment.
5. The contents of the aforesaid petitions, document annexed therewith show that each of the petitioner is claiming to be in possession of the land and have constructed house or shops on the basis of either having purchased the land by registered sale deed from erstwhile owner or on the basis of bhumi-swami rights conferred upon them. These documents on record show that the petitioners' claim are not frivolous but require proper inquiry.
6. If the allegation is that the petitioners have encroached upon land beyond their own land under their title or allotment, the proper course of action would have been to carry out demarcation on a fixed date in the presence of the individual petitioner. If, upon demarcation, any encroachment is found, it would be open for the respondent- Nagar Panchayat to proceed to take appropriate action of dispossession/demolition.

7. In view of the statement which has been made by learned counsel for the Nagar Panchayat and the material on record, I am not inclined to keep this matter pending. Keeping in view that it is for public interest to develop the roads but at the same time to protect the petitioners also provided they have not encroached upon the land beyond their own property, it would be expedient in the interest of justice to direct respondents- Nagar Panchayat, Adbhar to take appropriate action.
8. All the petitioners shall appear in the office of Chief Municipal Officer, Nagar Panchayat, Adbhar on **28th April , 2016**. On that date, each of the petitioner shall be informed of the date and time of demarcation proceedings. Each of the petitioner shall fully cooperate in the demarcation proceedings. If they do not cooperate and remain absent in the demarcation proceedings on the date given by Nagar Panchayat, no benefit shall accrue to them nor they shall be heard saying that they have not been afforded opportunity of hearing. The demarcation shall be completed within an outer limit of **2 months**.
9. It goes without saying that if no encroachment is found but the local authority needs land for widening of the road, it would always be open for them to acquire the land in accordance with the Acquisition Laws.
10. With the aforesaid observation/direction, all the petitions are finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge