

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1566 of 2016

- Narsingh Soni S/o Chhedilal Soni, Aged About 55 Years R/o Bramhanpara, Kasdol, Tahsil Kasdol, District Baloda Bazar Bhatapara Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration, Mahanadi Bhawan, New Mantralaya Naya Raipur Chhattisgarh
2. Chief Municipal Officer, Nagar Panchayat Kasdol, District Baloda Bazar Bhatapara Chhattisgarh
3. Prakashchandra Agrawal, S/o Tarachand Agrawal, Aged About 21 Years R/o Village Kharora, District Raipur Chhattisgarh

---- Respondent

For Petitioner	Shri Sanjay Patel, Advocate
For Respondent-State	Shri Ramakant Mishra, Dy. AG

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

27/06/2016

1. Learned counsel for the petitioner would argue that before constitution of Nagar Panchayat, Kasdol, it was a gram panchayat area, wherein Abadi land was set apart for dwelling of the villagers and the petitioner is in occupation of one part of the Abadi land, therefore, he cannot be branded an encroacher. He would further submit that order of removal of encroachment vide Annexure P-3 has been passed without issuing any show cause notice or giving opportunity of hearing to the petitioner, therefore, it is bad in law.

2. Learned State counsel would submit that the petitioner has not placed on record any document issued in his favour by the Gram Panchayat certifying his lawful possession or any grant in his favour, therefore, the notice (Annexure P-3) has rightly been issued to the petitioner.
3. Having considered the entire facts situation of the case, the writ petition is disposed of with a direction that the petitioner may submit his reply/representation along with all supporting documents before the Nagar Panchayat, Kasdol, the respondent No.2 within a period of 15 days from today. On such reply/representation being filed, the Nagar Panchayat shall examine the matter by giving proper opportunity of hearing to the petitioner, including personal hearing and thereafter pass a reasoned order as to the ground on which the petitioner is treated as encroacher. The said order be passed by the Nagar Panchayat, Kasdol within a period of 2 months from the date of submission of reply/representation.
4. Till the Nagar Panchayat, Kasdol passes the order or for a period of 10 weeks from today, the petitioner shall not be dispossessed from the subject premises.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala