

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2337 of 2015

- Arun Yadav S/o Mathura Yadav, Aged About 33 Years R/o Ward No. 3 Balrampur, District Balrampur Ramanujganj Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat & Urban Administration, Mantralaya, Mahanadi Bhawan, Capital Complex, Naya Raipur, Post Office Rakhi, District Raipur Chhattisgarh
2. The Collector, Balrampur, District Balrampur Ramanujganj Chhattisgarh
3. The Municipal Council Balrampur, Through Its President, Municipal Council Balrampur, District Balrampur Ramanujganj Chhattisgarh
4. The Chief Municipal Officer, Municipal Council Balrampur, District Balrampur Ramanujganj Chhattisgarh

---- Respondents

For Petitioner	Shri V. K. Pandey, Advocate
For Respondent/State	Shri Shashank Thakur, GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

15/01/2016

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. The petitioner has preferred this writ petition challenging the notice dated 16.12.2015 issued by the respondent No.4 threatening removal of encroachment and demolition of the construction made by the petitioner.

3. Learned counsel for the petitioner would submit that the petitioner has raised construction since last 30-40 years back when the subject area was a part of the Gram Panchayat. The petitioner has raised construction on his own land and not on any government land, therefore, the impugned notice is illegal. The impugned notice recites that the petitioner has raised the construction on land earmarked/reserved for market. Thus, impliedly the impugned notice says that the petitioner is raising construction on government land. The photographs (Annexure-P-3) demonstrates that the construction has already been demolished, however, learned counsel would state that some construction is still available, which is likely to be demolished.
4. Let the Municipal Council, Balrampur carry out the demarcation of the area in presence of the petitioner within a period of 3 weeks from today. If on such demarcation, it is found that the petitioner has encroached and raised the construction on any government land earmarked for market, the Municipal Council shall proceed to remove the construction or demolish the structure. However, if the petitioner has raised the construction on his own land, a notice may be issued to him for satisfying the authorities that the construction was made in accordance with law. The Municipal Council shall thereafter decide the matter after hearing the petitioner.
5. Till the demarcation is made and the fact of encroachment/illegal construction is ascertained, there shall be stay of any further demolition, however, the petitioner is also restrained from raising any further construction on the land till the matter is decided by the Municipal Council.

6. The Registry is directed to send copy of the order to the respondents No.3 & 4 within 3 days. Learned State counsel may also send copy of this order to the respondents No.3 & 4. Certified Copy be supplied to the petitioner and State as well.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala