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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 339 of 2016

Jagdishkumar Mehta S/o Late Girish Chand Mehta, Aged About
58 Years R/o Industrial Ward, P.O. Dhamtari, District Dhamtari
Chhattisgarh

---- Petitioner

Versus

1. The Senior Superintending Engineer South East Railway
Management Compound, W.R.S. Colony, Raipur, Chhattisgarh.
2. The Estate Officer, South East Railway, Management
Compound, W.R.S. Colony, Raipur, Chhattisgarh.
3. Union Of India, Through Chief Manager, South East Central
Railway, Garden Reach, Kolkata, West Bengal.

---- Respondents

For Petitioner	:	Shri Ankit Singhal, Advocate.
For Respondents/SECR	:	Shri Abhishek Sinha, Advocate on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

10/02/2016

Heard.

1. The petitioner has filed this petition alleging that the petitioner being in long standing possession is entitled to protect his possession unless he is evicting in accordance with law.
2. Learned counsel for the petitioner draws attention of this Court to an order dated 18.01.2016 passed in batch of petitions WP(C) No.110 of 2016, wherein this Court has directed demarcation within stipulated period and protection against demolition till demarcation is carried out. He submits that the petitioner in this petition is also entitled to similar relief.
3. Learned counsel for the respondents submits that vide order

dated 18.01.2016, referred to above, respondents have already undertaken the exercise of demarcation in respect of those petitioners, who had earlier approached the Court. He submits that the demarcation of the land in dispute in the present case shall also be carried out in the same spirit.

4. In cases of similar nature, this Court has already passed an order on 18.01.2016 in batch of petitions. It has been ordered -

“Considering the above settled legal principles and in view of the fact that the petitioners have not placed before this Court any document proving their title or entitlement to remain in occupation of the land, all the writ petitions are disposed of with a direction that the Sub Divisional Officer (R), Dhamtari shall demarcate the area to ascertain as to what exact area is owned by the railways or the State Government. Demarcation shall be carried within a period of one month from today. On the basis of finding on the demarcation, which should be carried on in presence of the petitioners, the railways or the State Government, as the case may be, shall proceed with the removal of encroachment, in accordance with law.

Till the demarcation is carried on or for a period of one month from today, the subject demolition shall remain stayed. The petitioners shall co-operate in the demarcation proceeding, failing which the protection may not inure to their benefit.”

5. In view of the above, this petition is also disposed off in similar terms with the directions that the Sub-Divisional Officer (Revenue), Dhamtari shall demarcate the area to ascertain as to what exact area is owned by the Railways or the State Government. Demarcation shall be carried out simultaneously along with demarcation which has already been ordered by this Court earlier. On the basis of finding on the demarcation, which should be carried on in the presence of the petitioner, Railways or the State Government, as the case may be, shall proceed with the removal of encroachment, in accordance with law. Till the demarcation so directed is carried out, the subject demolition shall remain stayed. This order is being passed subject to the condition that the petitioner shall cooperate in the demarcation proceedings, failing which the protection may not inure to their benefit.

Sd/-

(Manindra Mohan Shrivastava)

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