

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No.1272 of 2016

Malti Ram Sahu S/o Shri Hari Nath Sahu, Aged About 70 Years R/o Village
Adbhar, Ward No. 1, 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 Petitioner : Shri Anand Shukla, Advocate
For Respondent No.1 & 2: Shri Satish Gupta, GA
For Respondent No.3 & 4: Shri Vinay Pandey, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

11/05/2016

Heard.

2. Grievance of the petitioner is that the petitioner has been asked by notice dated
02-05-2016 to remove construction on the allegation of encroachment without there
being any measurement/demarcation carried out in accordance with law.
3. Learned counsel for respondents submits that similar cases have been disposed
by this Court vide order dated 13-04-2016 passed in W.P.(C)No.945/2016 and batch of
petitions.
4. After going through the contents of petition and grievance of the petitioner and
order passed by this Court in cases referred to hereinabove, I am incline to dispose off
the instant petition on similar terms.

5. Accordingly, it is directed as below:

“if the allegation is that the petitioner has 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 petitioner/petitioner's representative. 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.

This direction is being issued taking into consideration that it is for the public interest to develop roads but at the same time protected the petitioner also provided that they have not encroached upon the land beyond their own property.

6. The petitioner shall appear in the office of Chief Municipal Officer, Nagar Panchayat, Adbhar on 30-05-2016. On that date, the petitioner shall be informed about the date and time of demarcation proceedings. The petitioner shall fully cooperate in the demarcation proceedings. If he does not cooperate and remain absent in the demarcation proceedings on the date given by the Nagar Panchayat, no benefit shall accrue to the petitioner nor he shall be heard saying that he has not been afforded opportunity of hearing. The demarcation shall be completed within an outer limit of two months

7. It goes without saying that if no encroachment is found but the local authorities needs land for widening of the road, it would always be open for them to acquire the land in accordance with Acquisition Laws.

8. With the aforesaid observation, this petition is finally disposed off.

9. Certified copy to all the parties.

Sd/-
Manindra Mohan Shrivastava
Judge