

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1314 of 2017

1. Sushil Kumar S/o Shri Sita Ram, Aged About 38 Years
2. Shashi Kapur S/o Shri Prem Lal, Aged About 32 Years
3. Suresh Kumar Banjare S/o Late Gajju Ram, Aged About 37 Years
4. Balram S/o Shri Nanhu, Aged About 26 Years
5. Beni Ram, S/o Shri Ramdhiyan Joshi, Aged About 55 Years
6. Lalit Kumar Kumhaar, S/o Late Shri Kuber Kumhaar, Aged About 27 Years
7. Dev Kumar Yadav S/o Shri Bhagwani Prasad, Aged About 37 Years
8. Duler Vishwakarma S/o Late Chalnu Vishwakaram, Aged About 43 Years

All R/o Village & Post Murmunda, Tehsil Dhamdha, District Durg, (Chhattisgarh).

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Collector, District Durg, (Chhattisgarh).
2. Sub Divisional Officer (Revenue), Tehsil Dhamdha, District Durg, (Chhattisgarh).
3. Tehsildar, Tehsil Dhamdha, District Durg, (Chhattisgarh).
4. Naib Tehsildar, Tehsil Dhamdha, District Durg, (Chhattisgarh).

---- Respondents

For Petitioners : Shri Prasoon Agrawal, Advocate
For State : Shri Sangharsh Pandey, Dy. Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

10/05/2017

1. Heard.
2. Petitioners have approached this Court aggrieved by various notices issued against them on the allegation that the petitioners are encroachers and they should remove their encroachment.

3. Learned counsel for the petitioners submits that even if the petitioners are encroachers, they have poor landless persons and are in need of shelter as necessity of life and they cannot be thrown out by the administration which is a part of the welfare of the State without providing any alternative place for living with their family by making allotment of small plots to construct their shelter homes.
4. Learned State counsel submits that the action has been taken against the petitioners in compliance of the order dated 19/01/2017 passed in WP(C) No. 141 of 2017 to which petitioners were also party. According to him, the petitioners have not placed on record any documents to show that they were granted any lease, license or any authority to enter upon and construct their shelter home on the government land, therefore, proceeding of removal have been initiated.
5. In the absence of any material on record, learned counsel for the petitioners not being in a position to produce any authority under which, the petitioners have occupied the government land, this Court cannot protect against the action of removal of encroachment and no direction can be issued to protect the petitioners.
6. At the same time the petitioners being poor landless person when have no land in their hand for their shelter, this Court would certainly observe that the petitioners may approach the competent authority of the State for allotment of small plot under any scheme for allotment of plots/houses/affordable houses to landless persons, subject to petitioners being eligible for such allotment. If such application are made, the authority may examine and provide such relief as may be claimed to the petitioners. It is made clear that such consideration shall not take place unless petitioner vacate encroached land.

Sd/-

(Manindra Mohan Shrivastava)
Judge