

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 207 of 2017

1. Gaindlal Dhritlahre S/o Samaliya Dhritlahre, Aged About 50 Years R/o Village Chhatauna, Police Station & Tahsil Mandir Hassaud, District Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh)
2. The Collector, District Raipur, (Chhattisgarh)
3. The Additional Tahsildar, Mandir Hassaud, District Raipur, (Chhattisgarh)
4. The Gram Panchayat, Chhatauna, Through The Secretary, Janpad Panchayat, Mandir Hassaud, District Raipur, (Chhattisgarh)
5. Jamadar Maal, Tahsil Office, Arang, District Raipur (Chhattisgarh)

---- Respondent

For Petitioner	Shri C.R. Sahu, Advocate
For Respondent/State	Shri Arvind Dubey, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

15/03/2017

1. Petitioner would assail the distress warrant issued by the respondent No.3 whereby he has been directed to remove his possession from the encroached Government land.

2. It appears, the respondent No.3 has passed an order on 6-12-2016 under Section 248 of the Chhattisgarh Land Revenue Code, 1959 (for short 'the CGLRC') directing the petitioner to remove encroachment and pay fine of Rs.5,000/-. Pursuant to which the petitioner has paid the fine amount on 12-12-2016 (Annexure – P/4), but has not vacated the premises.
3. Challenge to the distress warrant, without challenging the original order, is not maintainable, because the distress warrant is issued in execution of original order passed under Section 248 of the CGLRC and it has no separate existence. As long as the order under Section 248 is operative, the authority has to issue a distress warrant, which cannot be said to be illegal or without jurisdiction.
4. In absence of any challenge to the original order dated 6-12-2016, this petition is not maintainable. Even otherwise, that order has been passed by the Additional Tahsildar; against the same the petitioner is required to approach the appellate authority; and a writ petition directly before this Court is not maintainable.
5. As a sequel, the writ petition is liable to be and is hereby dismissed.

Sd/-

Judge
Prashant Kuamr Mishra

Gowri