

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1983 of 2017**

Mahesh Agrawal S/o Shri Girdhari Lal Aged About 46 Years R/o Industrial Ward, Dhamtari, District Dhamtari Chhattisgarh.

---- Petitioner

Versus

1. Union Of India S/o Through Chief Manager South East Central Railway, Garden Reach, Kolkata (West Bengal).
2. Senior Divisional Engineer (Works), South East Central Railway Compound. W. R. S. Colony, Raipur Chhattisgarh.
3. State Of Chhattisgarh Through Collector, Dhamtari (Chhattisgarh)
4. Tahsildar, Dhamtari District Dhamtari Chhattisgarh.

---- Respondents

For Petitioner	: Mr. Upendra Bharat, and Mr. Goutam Khetrapal, Advocates.
For Respondent No. 2	: Mr. H.S. Ahluwalia, Advocate.
For Respondent /State	: Mr. Arun Sao, Dy. Adv. General .

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****10/11/17**

1. The petitioner calls in question the notice dated 09.05.2017 issued by respondent No. 2 directing eviction of the petitioner holding the petitioner as an encroacher upon the Railway land against which this writ petition has been preferred.
2. Learned counsel for the petitioner would submit that the impugned order is unsustainable and bad in law.
3. On the other hand, learned counsel appearing on behalf of respondent No. 2- SECR would support the impugned order.

4. I have heard learned counsel for the parties, has carefully gone through the records and perused the impugned order with utmost circumspection.

5. The petitioner has filed a Writ Petition (C) No. 347/2016 *Mahesh Agrawal vs. The Senior Superintending Engineer, SECR* which was disposed of on 10.02.2016 in line with batch of petitions in WP(C) No. 110 of 2016 *Dhyan Singh vs. Union of India and Others* on 18.01.2016 directing demarcation of land and thereafter proceed for removal of encroachment in accordance with law. The land in question was demarcated as directed and the demarcation report has also been filed along with the writ petition in which the land in question has been held to be owned by the Central Government and thereafter, this notice for eviction has been issued. Not only this, the petitioner has also filed the Civil suit No. 292-A/2006 *Mahesh Agrawal v. General Manager and Others* that has been dismissed by order dated 12.09.2007 and Civil Appeal No. 82-A/2009 which has also been dismissed on 17.03.2010 and Civil Court has recorded a finding that the land in question is held by the Central Government.

6. From the aforesaid narration of the facts it is clear that the petitioner's first writ petition has been disposed of directing demarcation which has been done and land is held to be of Central Government and has not been challenged by the petitioner and which has become final and the petitioner's civil suit as well as the civil appeal has been dismissed which has attained finality. Therefore, the petitioner cannot be allowed to maintain this second writ petition on the new ground as such the petition is barred by the principle of *res-judicata* and principle of constructive *res-judicata*.

7. Even otherwise, the petitioner has failed to establish any legal right over the subject land. I do not find any merit in this petition.

8. Accordingly, the writ petition deserves to be and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

