

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition No.3354 of 2006

Municipal Council, Kanker, Represented through the Chief Municipal Officer, Shri A.K. Halder, S/o Shri Ajit Halder, Aged 43 years, R/o Kanker, District Kanker (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Revenue, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)
2. Collector, Kanker, District Kanker (C.G.)
3. Executive Engineer, Public Works Department, Kanker, District Kanker (C.G.)
4. Sub-Divisional Officer (Revenue), North Bastar Kanker, District Kanker (C.G.)
5. Nayab Tahsildar, Kanker, North Bastar Kanker, District Kanker (C.G.)
6. Hemant Singh Rajput, Aged 57 years, S/o Narayan Singh Rajput, R/o Jhuniapara, Kanker, District Kanker (C.G.)

---- Respondents

For Petitioner: Mr. Kishore Bhaduri and Mr. Anmol Sharma,
Advocates.

For State/Respondents No.1 to 5: -

Mr. Shashank Thakur, Govt. Advocate and
Mr. Ashish Surana, Panel Lawyer.

For Interveners: Mr. Sunil Otewani, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

01/11/2017

1. In a complaint raised by a private person, respondent No.6 herein, the Collector-cum-District Magistrate found that the petitioner has encroached over 39 sq.mtrs. of land owned by the State (Public

Works Department) and further found that on the encroached area, the Municipal Council had constructed a shopping complex and in eight shops medicals stores are running and further directed that rent collected by the Municipal Council be transferred to the Department of Public Works. Feeling aggrieved against that, the complainant filed revision before the Board of Revenue and the Board of Revenue set aside the order passed by the Collector and the Tahsildar has directed removal of encroachment.

2. Mr. Kishore Bhaduri, learned counsel for the petitioner, would submit that though the Municipal Council has encroached the land bona fidely and constructed shopping complex in which Medical Stores are running which is public interest and as directed by the Collector, the amount of rent is being deposited in the Public Works Department, therefore, no useful purpose will be served by sustaining the order of demolition passed by the Board of Revenue.
3. Learned State counsel would support the impugned order.
4. Learned counsel for the interveners would support Mr. Bhaduri, as the interveners are running the medical stores.
5. I have heard learned counsel for the parties.
6. The learned Collector has clearly recorded that the land is owned by the State and the shopping complex was constructed by the Municipal Council and let out to private persons for running medical stores and further directed that the amount of rent of the said shops be deposited in the Public Works Department. Since the medical stores in question have been constructed by incurring huge money

which is tax payer money and thereafter, the said medical stores are being run by private persons to whom they have been let out, it has rightly been held that demolition would not be in public interest particularly, interest of the State has been taken care of and the amount of lease rent has been directed to be deposited in the head of the Public Works Department, State of Chhattisgarh. I am also of the opinion that no useful purpose will be served by upholding the order of demolition passed by the Board of Revenue. Accordingly, the order passed by the Board of Revenue is set aside and the order of the Collector is restored. Yearly lease rent as directed by the Collector shall be continued to be deposited in the Public Works Department. However, the Collector / competent authority would do the needful to regularise the land in accordance with law within three months from the date of receipt of a copy of this order.

7. With the aforesaid direction, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge