

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.3090 of 2017**

1. Suresh Kumar S/o Pratap Rai Mulwani, Aged About 45 Years R/o Sihawa Chowk, Dhamtari, Tahsil & Distt. Dhamtari Chhattisgarh.
2. Motiram S/o Videshram Vishwakarm, Aged About 75 Years R/o Sihawa Chowk, Dhamtari, Tahsil & Distt. Dhamtari Chhattisgarh.
3. Jugal Kishore S/o Rameshwar Prasad, Aged About 52 Years R/o Sihawa Chowk, Dhamtari, Tahsil & Distt. Dhamtari Chhattisgarh.
4. Murli S/o Laxminarayan Aged About 27 Years R/o Sihawa Chowk, Dhamtari, Tahsil & Distt. Dhamtari Chhattisgarh.
5. Subhash S/o Shri Banwari Lal Agrawal, Aged About 55 Years R/o Sihawa Chowk, Dhamtari, Tahsil & Distt. Dhamtari Chhattisgarh.
6. Narmada Prasad, S/o Parasram Aged About 53 Years R/o Sihawa Chowk, Dhamtari, Tahsil & Distt. Dhamtari Chhattisgarh.

---- Petitioners**Versus**

1. Union Of India Through The Secretary, Ministry Of Railway, Rail Bhawan, New Delhi
2. The Senior Section Engineer (Work), W. R. S. Raipur, District Raipur Chhattisgarh
3. The Divisional Railway Manager, South Eastern Central Railway, Raipur, District Raipur Chhattisgarh
4. The Collector, Dhamtari, District Dhamtari Chhattisgarh.
5. The Commissioner, Municipal Corporation, Dhamtari, District Dhamtari Chhattisgarh.

--- Respondents

For Petitioners :Mr.Manoj Paranjpe, Advocate
 For State/Resp. :Mr. Shashank Thakur, Govt. Advocate & Mr. H.S. Ahluwalia, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

17/11/2017

(1) This petition is directed against the impugned notice dated 28.10.2017 passed by respondent No.2 directing the petitioners to remove encroachment and vacation of the suit premises belonging to the railways alleging that they have encroached on their land.

(2) Learned counsel appearing for the petitioners would submit that the impugned notice is unsustainable and bad in law.

(3) Per contra, learned counsel appearing for the respective respondents would support the impugned order and oppose the submission made by learned counsel for the petitioners.

(4) I have heard learned counsel for the parties.

(5) The present petitioners had earlier filed writ petitions being WPC No.110 of 2016 & others connected matters before this Court. The said writ petitions were disposed of by this Court on 18.01.2016 directing Sub Divisional Officer (Revenue) Dhamtari to demarcate the area to ascertain as to what exact area is owned by the Railways or the State Government. Pursuant to order of this Court, demarcation has been done by competent Revenue Officer. On the basis of which, impugned notice for eviction has been issued. This Court by order dated 18.01.2016 passed in WPC No.110/2016 and other connected matters has clearly directed the respondents Union of India and others to proceed further for removal of encroachment on the basis of finding on the demarcation, which states as under in para 7:-

“7. Considering the above settled legal principles and in view of the fact that the petitioners have not placed before

this Court any document proving their title or entitlement to remain in occupation of the land, all the writ petitions are disposed of with a direction that the Sub Divisional Officer (R), Dhamtari shall demarcate the area to ascertain as to what exact area is owned by the railways or the State Government. Demarcation shall be carried within a period of one month from today. On the basis of finding on the demarcation, which should be carried on in presence of the petitioners, the railways or the State Government, as the case may be, shall proceed with the removal of encroachment, in accordance with law”.

(6) The demarcation report as done by the competent revenue authorities has not been questioned either in the writ petition or any other appropriate proceeding and demarcation report has become final.

(7) Thereafter, in accordance with the demarcation report, the respondents have proceeded further and issued notice to the petitioners for removal of encroachment and vacation of the suit premises belonging to the railways. The petitioners have failed to establish any legal right over the subject land, which has held to be land belonging to Central Government.

(8) So far as petitioners No.5 & 6 are concerned, they were directed to be evicted by the Estate Officer on 22.08.2008. Against that order, they preferred appeals before the District Judge under Section 09 of Public Premises (Eviction of Unauthorized Occupant) Act, 1971. Those appeals have already been dismissed by Additional District Judge (FTC), Dhamtari by order dated 08.12.2016. Nothing has been brought on record to establish that order of Additional District Judge has been

set-aside as such that order has attained finality.

(9) In view of above stated discussion, I do not find any merit in the writ petition. The writ petition deserves to be and is accordingly dismissed. No costs.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-