

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2912 of 2016

R.P. Sinha S/o Late Shri Ramji Prasad Sinha, Aged About 63 Years R/o Ward No. 30,
Ajad Nagar, Birgoan, District Raipur, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue Department, Mantralaya Mahanadi Bhawan, Naya Raipur, Raipur, (Chhattisgarh)
2. Commissioner, Nagar Nigam Birgaon, District Raipur, (Chhattisgarh)
3. Collector, Raipur, District Raipur, (Chhattisgarh)
4. Sub Divisional Officer (Revenue), District Raipur, (Chhattisgarh)
5. Tahsildar, Dharsiwa, District Raipur, (Chhattisgarh)
6. Shrichand Prasad Sinha, S/o Late Shri Jaimangal Prasad Sinha, Ward No. 30, Ajad Nagar, Birgoan, District Raipur, (Chhattisgarh)

---- Respondents

Shri Mateen Siddiqui, counsel for the petitioner/s.
Shri Ramakant Mishra, Dy.A.G. for the State / respondents 1 to 5.
Shri Prateek Sharma, counsel for respondent No.6.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/05/2017

This petition has been filed by the petitioner seeking direction to the authorities to stop alleged illegal construction raised on the land admeasuring 1200 sq. ft. by respondent No.6.

2. The case of the petitioner is that respondent No.6 owns a plot of 1200 sq. ft. and after he was granted building permission, he has raised construction / continuing to raise construction in the manner that he obstructs public road and affects the access of the petitioner. For this purpose, the petitioner, in addition to his affidavit, has filed building permission, photographs and representations.

3. This Court had directed the State and the Corporation to file reply.

From the reply of respondents, it is revealed that a demarcation / measurement was carried out at the spot by the Revenue Inspector and a report was submitted before the Nayab Tahsildar on 16/01/2017. In that report, the location of construction has been stated as also the location of petitioner's land. The report does not show that respondent No.6 has encroached upon any public road.

4. Learned counsel for the petitioner, however, seriously disputes the correctness of the said report and submits that the matter requires proper enquiry.

5. After hearing learned counsel for the parties and pleadings made in the petition, present is a case which involves factual dispute and would require evidence. Once this Court does not find any material in the reply filed by the State before the Court to show *prima facie* that there is any encroachment on a public road, public element no longer survives for consideration. The dispute now remains purely between the petitioner and respondent No.6 which can be resolved by approaching the Civil Court.

6. The petition is, therefore, dismissed with liberty to the petitioner to take recourse to remedy before the Civil Court.

Sd/-
(Manindra Mohan Shrivastava)
Judge