

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1837 of 2013**

1. Nathuram Soni, S/o Shri Ramchandra Soni, aged about-57 years, R/o Boirdadar Chauk, Soni Complex, Raigarh, P.S. Chakradhar Nagar, Tahsil & District Raigarh, Civil and Rvenue Distt. Raigarh (C.G.)

2. Prem Kumar Soni, S/o Shri Ramchandra Soni, aged about-55 years, R/o Boirdadar, Chauk, Soni Complex, Raigarh, P.S. Chakradhar Nagar, Tahsil & District Raigarh, Civil and Revenue Distt. Raigarh (C.G.)

----Petitioners**Versus**

1. State of Chhattisgarh through Secretary Nagriya Prashan Awam Vikas Bibhag, Mahanadi Bhavan, New Raipur (C.G.)

2. Chief Engineer, Gramin Yantriiki Sewa Vikas, Commissioner Office, Raipur (C.G.)

3. Collector, Raigarh, Distt. Raigarh (C.G.)

4. Commissioner, Municipal Corporation, Raigarh, Distt. Raigarh (C.G.)

---- Respondents

For Petitioner : Mr. Manoj Kumar Sinha, Advocate. .

For State : Mr. Avinash Singh, Panel Lawyer.

For Respondent No. 4 : Mr. Pankaj Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****23/07/2018**

1. Learned counsel for the petitioner would submit that the petitioner cannot be forced to surrender his bhumiswami right for widening of the road as the right to property is constitutional right and it cannot be taken away without authority of law

2. Per contra, learned counsel for respondent No. 4 would submit that additional F.A.R. or two houses under the IHSDP scheme will be provided to the petitioner and the petitioner has option to choose either of them.

3. I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

4. As per Article 300A of the Constitution of India, Right to property is a constitutional right and the persons not to be deprived of his property save by authority of law.(See: Tukaram Kanna Joshi V. M.I.D.C, AIR 2013 SC 565)
5. The expression "Property" in article 300A is not confined to land alone, it includes intangibles like copyrights and other intellectual property and embraces every possible interest recognized by law. (See: K.T. Plantation Pvt. Ltd. Vs. State of Kerala, AIR 2011 SC 3430.
6. Revering to the facts of the present case, I am of the view that the State Authorities cannot compel the petitioner to surrender his land and take another land or take the additional F.A.R.
7. In view of above, as the right to property is a constitutional right and it cannot be taken away without authority of law, order dated 09.06.2013 (Annexure P-1) is liable to be and is hereby quashed.
8. At this stage, learned counsel for the petitioner would submit that land of the petitioner has already been taken but the compensation has not been paid.
9. Be that as it may, appropriate land acquisition proceedings shall be initiated and the compensation shall be paid to the petitioner within a period of six months from the date of receipt of certified copy of this order in accordance with the applicable Land Acquisition Law, if the petitioners' land has been taken as above-stated.
10. Accordingly, the writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

