

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRMP No. 330 of 2018

Smt. Saraswati Deshlahare W/o Late Gangaram Aged About 56 Years R/o Malappa Camp. Kirandul, Tahsil Bacheli, P. S. Kirandul, District Dantewada Chhattisgarh. --- **Petitioner**

Versus

State of Chhattisgarh through Collector/District Magistrate, Dantewada, District, Dantewada Chhattisgarh --- **Respondent**

20.02.2018	Mr. Shrawan Agrawal, Counsel for the petitioner. Mrs. Astha Shukla, Panel Lawyer for the State. (1) This petition is against the order dated 14.12.2017 passed by the First Additional Sessions Judge, Dakshin Bastar, Dantewada whereby the order passed by the SDM, Dantewada dated 26.04.2016 has been affirmed. (2) Learned counsel for the petitioner would submit that the petitioner is in possession of the land where-from a drain has been proposed and without making an enquiry as to whom the land belongs over which the drain is proposed, it cannot be forcefully done. He further submits that the land belongs to one Supa and Supa was not before the SDO, consequently, in absence of opportunity of hearing to the original owner, the drain cannot be constructed. He further submits that according to the Municipal Council, no proposal exists for construction of drain, therefore, the order of the SDM as also the First Additional Sessions Judge cannot be sustained. (3) Perused the order of SDM and the documents filed along with the petition. The documents Annexure- P/8 which was obtained from the Patwari would show that a report was called in respect of the area wherein the drain was proposed to be constructed. It purports that because of accumulation of huge water damage was caused to the houses of public at large. Consequently, a drain was

proposed. The said report also reflects that few of the house holders are badly affected by such stagnation of water. According to the report, no document of ownership was placed during inspection and it was recorded that the land bearing Khasra No. 8 admeasuring 1.16 Hectares was recorded in the name of Supa S/o Buta. One more document Ex. P/6 wherein she has given an undertaking to facilitate the neighbours and residents of the area and she has agreed for construction of the drain. Therefore it appears that the petitioner who is before this court is an encroacher. No document is placed before this court to show that the ownership belonged to her. Therefore, when the drain is proposed to facilitate the neighbours and the residents of the particular area, it cannot be objected by single person only on the ground that he or she is in possession. Further more, the petitioner having agreed to allow the construction of the drain, subsequently, it cannot be objected by the petitioner. Therefore, I am not inclined to stop the development of construction of drain and facilitate the encroacher to retain the position.

(4) The petition is completely misconceived and I do not find any reason to interfere in the order of the First Additional Session Judge. Accordingly, this petition filed under section 482 of the Code of criminal Procedure is dismissed.

**Sd/-
GOUTAM BHADURI
JUDGE**