

HIGH COURT OF CHHATTISGARH, BILASPUR**CONT No. 283 of 2017**

Pusuram S/o Late Baidhan, Aged About 80 Years R/o Pahadipara, Near Sai Mandir
Gudiyari, District Raipur, Chhattisgarh, Chhattisgarh **---- Petitioner**

Versus

1. Shekhar Chandrakar Executive Engineer Public Works Department Raipur, District Raipur, Chhattisgarh, Chhattisgarh
2. Jageshwar Kaushal, Tahsildar, Raipur, District Raipur, Chhattisgarh , District : Raipur, Chhattisgarh **.....Respondents**

For Petitioner	:	Mr. Vikram Dixit, Advocate
For State	:	Mr. Dhiraj Wankhede, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board**17.01.2018**

Heard.

1. The petitioner has filed this contempt petition alleging willful disobedience of order dated 15.05.2017 passed in WPC No.2430 of 2016.
2. Learned counsel for the petitioner submits that when the petitioner apprehending demolition, filed a petition before this Court, on behalf of the State, clear undertaking was given that in the matter of construction of road, the petitioner's land comprised in khasra No.495 is not being used and it has not been acquired. Relying upon this statement, the writ petition was disposed off. However, later on, a wall standing on the land of the petitioner was demolished to complete the construction of road. Therefore, this is a case of willful disobedience and an act of overreaching proceeding of the Court.
3. According to learned counsel for the petitioner, the respondents have misled the Court and made false statement and deter the Court from passing any order in favour of the petitioner.

4. Learned counsel for the respondents referring to the averments made in the reply as well as spot inspection report would submit that after the order was passed by this Court, before proceeding to make construction of road, a spot inspection was carried out on 23.05.2017 in the presence of the witnesses. According to him, though the petitioner was noticed, the petitioner refused to participate in the process of spot inspection. He would submit that the authorities acting bonafide after obtaining report of spot inspection with regard to location of the wall and based on the report found that the wall was actually encroaching on part of Government land comprised in Khasra No.36, 497 & 500. On this report and bonafide action, the authorities proceeded to demolish the wall to facilitate construction of public road.

5. After going through the material on record, the pleadings and documents filed by the parties, it is found that the respondent authorities before proceeding to make construction had carried out a spot inspection. Though learned counsel for the petitioner seriously disputes the correctness and validity of the spot inspection report, in my opinion, it would not be a case of willful disobedience because there was no direction by this Court that the wall should not be demolished. The issue requires factual enquiry and recording a finding by Civil Court of proper jurisdiction regarding the location of the wall. The petitioner shall have the liberty to approach the Civil Court for appropriate declaration and other reliefs as may be available to him under the law. The Rule is therefore discharged and contempt petition is closed.

Sd/-

(Manindra Mohan Shrivastava)
Judge