

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2011 of 2019

- Alok Tiwari, S/o Late Ramashankar Tiwari, Aged About 38 Years, R/o Latti Para (Kankalin Para), Kanker, District- Uttar Bastar Kanker, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Urban Development Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District- Raipur, Chhattisgarh
2. Chief Municipal Officer, Municipal Council, Kanker, District- Uttar Bastar Kanker, Chhattisgarh
3. Collector, Kanker, District- Uttar Bastar, Kanker, Chhattisgarh
4. Tahsildar, Tahsil- Kanker, District- Uttar Bastar, Kanker, Chhattisgarh

---- Respondents

For Petitioner
For Respondent-State
For Respondent No.2

Shri C. J. K. Rao, Advocate
Shri Sudeep Verma, Dy. GA
Shri Rahul Jha, Advocate

Hon'ble Justice Mr. Prashant Kumar Mishra

Order On Board

18/06/2019

1. Petitioner is assailing the legality and validity of the impugned notice (Annexure-P-1) issued by the Municipal Council, Kanker directing him to remove encroachment and unauthorized construction over the government land, which the petitioner has illegally occupied.
2. Referring to the sale deed executed by one Baisakhin Bai on 28.02.2005, it is argued that the petitioner is in possession of

land owned by him, therefore, the impugned notice is illegal and without authority of law.

3. Learned counsel for the Municipal Council, Kanker would submit that the notice itself indicates that spot inspection was carried on in the presence of the petitioner, therefore, the petitioner is well aware of the encroachment made by him.
4. Perusal of the notice (Annexure-P-1) would indicate that an inspection was made in petitioner's presence, however, there is no reference of demarcation report, neither the petitioner nor the respondents have filed any revenue or municipal record to prove their respective ownership. In the circumstances, the present set of documents available on record are not found sufficient to decide the issue, which is otherwise cognizable by a Civil Court.
5. In the circumstances, I deem it appropriate to dispose of the writ petition directing the SDO (Revenue), Kanker to carry out demarcation of the area presently in occupation of the petitioner in the presence of the petitioner and owners of adjoining land as also the Officers of the Municipal Council, Kanker. At the time of demarcation, the revenue record of the concerned revenue and/or municipal record of the concerned land shall be made available to the SDO (Revenue) by the petitioner as well as by the Municipal Council. If in the demarcation report, it is found that the petitioner has encroached the land belonging to the Municipal Council, Kanker, the Municipality would be at liberty to proceed to execute the notice (Annexure-P-1).

6. The above proceedings shall be completed within a period of 2 months from today. During this period, the action pursuant to the impugned notice (Annexure-P-1) shall remain in abeyance.
7. The writ petition stands disposed of.

Sd/-
Prashant Kumar Mishra
Judge

Nirala