

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2591 of 2019**

Basant Sharma S/o Ghanshyam Prasad Sharma Aged About 74
Years R/o Shivarinaraya Road, Village Gidhori, District Baloda Bazar
Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh ---
Petitioner

Versus

1. State of Chhattisgarh through Department of Public Works
Department, Naya Mantralaya, Naya Raipur Chhattisgarh., District :
Raipur, Chhattisgarh
2. The Sub Divisional Officer (Revenue) Kasdol, District Bhatapara -
Baloda Bazar Chhattisgarh., District : Balodabazar-Bhathapara,
Chhattisgarh
3. The Collector District Bhatapara - Baloda Bazar Chhattisgarh., District
: Balodabazar-Bhathapara, Chhattisgarh
4. Tahsildar Kasdol, District Bhatapara, Baloda Bazar Chhattisgarh.,
District : Balodabazar-Bhathapara, Chhattisgarh --- **Respondents**

WPC No. 2592 of 2019

Sunder Sai S/o Mohar Sai Aged About 74 Years R/o Shivarinarayan
Road, Village Gidhori, District Baoloda Bazar Chhattisgarh, District :
Balodabazar-Bhathapara, Chhattisgarh --- **Petitioner**

Versus

1. State of Chhattisgarh through Department of Public Works
Department, Naya Mantralaya, Naya Raipur District : Raipur,
Chhattisgarh
2. The Sub Divisional Officer (Revenue) Kasdol, District Bhatapara-
Balodabazar, Chhattisgarh
3. The Collector District Bhatapara- Balodabazar Chhattisgarh.
4. Tahsildar Kashdol, District Bhatapara- Balodabazar Chhattisgarh.---
Respondents

For the Petitioner(s) : Mr. Amit Sharma, Advocate

For the State : Mr. Sudeep Verma, & Mr. Anand Verma
Dy. Govt. Advocates

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

25.07.2019

1. Since the facts and grounds as also the prayer made in both the petitions are similar, they are decided together by the common order.
2. Grievance of the petitioners are that on 05.07.2019 they were served with a notice by the Tahsildar vide Annexure P-1 u/s 248 of the Land Revenue Code directing the petitioners to appear before the Tahsildar on 17.7.2019 on the allegation that they have encroached upon the government land at village Gidhouri. It is further submitted that the notice so served neither reflects the Khasra number nor any particulars so as to identify the same whereas petitioner Basant Sharma son of Ghan Shyam is owner of land bearing Kh.No.384/9 admeasuring 0.024 hectares at village Gidhouri P.C.No. 156 Tahsil Kasdol and the petitioner Sundar Sai had purchased the property bearing No.384/3 admeasuring 0.010 hectares at village Mouja, Gram Panchayat Kasdol, Tahsil Kasdol by a registered sale deed. The petitioners contend that pursuant to the notice when they went to the office of the Tahsildar, the concerned Tahsildar of Kasdol was not available and on the very next date, some part of the demolition was carried out.
3. A perusal of both the notices would show that the notice was served to one Basant son of Ghan Shyam and another was served to Lalji who is said to be son of Sunder Sai. In the said notices, no other fact is written that the petitioners have encroached upon the land at village Gidhouri. No particulars

of the land have been mentioned whereas the petitioners rely on the sale deeds which are placed on record. The said sale deeds would show that the petitioners are the registered purchasers of the two lands namely bearing Khasra No.384/9 ad-measuring 0.024 hectares and 384/3 admeasuring 0.010 hectares in Gram Panchayat Gidhoura.

4. In the facts and circumstances of the case, the cause of justice would be sub-served if the State is directed to demarcate the land of the petitioners according to the procedure laid down in the Land Revenue Code. Since according to the State the road is being constructed and after demarcation if it is found that the land of the petitioners falls in widening of the road, then in such a case due procedure should be adopted by the State to oust the petitioners and procedure for acquisition of land should be followed as per the statute. It is a settled proposition that no person shall be deprived of the right to enjoy his property under Article 300-A of the Constitution of India otherwise than in due course of law which is to be adopted in its true spirit and objective. Till the aforesaid direction is carried out, no further demolition shall be made by the respondents. In case the proposed widening of road do not affect the land of petitioners then the State would be at liberty to construct the road.

5. With the above observation, this writ petition is disposed of.

Sd/-

**GOUTAM BHADURI
JUDGE**