

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2989 of 2019

Sarvamangla Buildcon Through Partner Vimal Agrawal S/o Shri Ramsingh Agrawal, Aged About 36 Years, R/o. 107 Transport Nagar, Tahsil And Police Station Korba, District Korba, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Revenue, Mantralaya, Raipur, Chhattisgarh.
2. State Of Chhattisgarh Through Secretary, Department Of Urban Administration And Development, Government Of Chhattisgarh, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
3. The Sub Divisional Officer, (Revenue) Korba, District Korba, Chhattisgarh.
4. The Collector Korba, District Korba, Chhattisgarh.
5. State Of Chhattisgarh Through Office Of Director Town And Country Planning, Korba, District Korba, Chhattisgarh.
6. The Tesildaar Korba, Tahsil And District Korba, Chhattisgarh.
7. State Of Chhattisgarh Through Police Station In Charge, City Kotwali, Korba, Tahsil And District Korba, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Rajat Agrawal & Mr. Harshwardhan Parganiha, Advocates
For State/Respondents	:	Mr. Alok Bakshi, Addl. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02.09.2019

Heard.

1. The present petition is against the order dated 16.08.2019 (Annexure P-1) issued by the Tahsildar, Korba.
2. It is contended on behalf of the petitioner that after the petitioner after purchase of certain land has started construction and the demarcation was carried out thereon. It was found that the petitioner has purchased the land and on the demarcated land when the construction was being raised initially the construction was stopped by the Municipal Corporation on the ground that the permission of construction has not been renewed despite the fact that the application for renewal of the permission was issued. Therefore, this Court by an order dated 26.06.2019 passed in W.P.C. No.2096/2019 has

given an interim order in favour of the petitioner. Subsequently, it is contended that the respondents despite the fact that the petitioner is in possession, notice Annexure P-1 has been issued by the Tahsildar and construction has been stopped. It is prayed that therefore the interim protection may be granted to the petitioner so that the petitioner may be allowed to carry on the construction.

3. Learned State counsel opposes the argument and would submit that it is only a notice by the Tahsildar who is in the hold of the matter to decide and the petition is premature.
4. Perused the document Annexure P-1, which is a notice issued by the Tahsildar wherein the Tahsildar has stated that there has been a difference finding in demarcation in the year 1991, 1994, 1995 & 2010 respectively, as such, the order of restraint was passed. The petition is against notice Annexure P-1 wherein subsequent hearing was given on 26.08.2019. It is contended on behalf of the petitioner that on 26.08.2019 reply has been submitted. The notice pertains to the fact that there has been a difference of finding with demarcation of the land, as such, at this stage, when the Tahsildar is in seisin of the matter, this Court in exercise of Article 226 of the Constitution shall not high-jack the issue. The petitioner is very well within his right to demonstrate the facts & figure by documents and argue before the Tahsildar so as to demonstrate the fact that construction are being made within a particular area, which is demarcated in their favour. At this stage, any finding by this Court would amount to overlapping the issue which the Tahsildar is in hold. The petition at this stage is premature. Since it has been stated that the construction are being stopped, the Tahsildar is directed to decide the subject case within a period of three months from the date of receipt of a copy of this order.
5. With such observation, the petition stands disposed off.