

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 3852 of 2019

Smt. Sarswati Soni W/o Shri Ghanshayam Soni Aged About 37 Years R/o Shrishti Vihar Colony, Mahoba Bazar Road Raipur, Tehsil and District Raipur Chhattisgarh.

--- Petitioner(s)

Versus

1. State of Chhattisgarh Through Its Secretary, Public Works Department, Mahanadi Bhavan, New Raipur Chhattisgarh.
2. Executive Engineer Public Works Department, Vidhan Sabha Division Raipur Chhattisgarh.
3. Sub Divisional Officer Public Works Department, Vidhan Sabha Sub Division Raipur Chhattisgarh.
4. The Sub Divisional Officer (Rev.) Raipur Chhattisgarh.

---Respondents

For Petitioner	:	Shri Akhilesh Kumar, Advocate.
For State	:	Ms. Sunita Jain, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23.10.2019

1. Challenge in the present writ petition is to the order Annexure P/1, dated 15.10.2019 whereby the respondent No.3 has ordered the petitioner for removing the alleged encroachment of the petitioner.
2. According to respondent No.3, the said land is required for the purpose of construction/widening of Tatibandh-Hirapur Four lane road.
3. The contention of the petitioner is that, the petitioner is the owner of said property by virtue of sale deed executed as early as on 09.09.2010 (Annexure P/2). The petitioner had purchased the said land from one Nirmala Devi Upadhyay, who, in turn, purchased the said property from one John Peter in the year, 2009. The counsel for the petitioner also refers to report of the Revenue Inspector dated 22.09.2015 which would show that the said land was private land owned by John Peter which was subsequently sold to Nirmala Devi Upadhyay and Nirmala Devi Upadhyay, in turn, have sold it to the present petitioner.

4. According to the petitioner, the said land is purely a private land and therefore the said land could not have been got evicted by the officers of the Public Works Department. According to petitioner, even if the government wanted that land for the purpose of construction/widening of the road, the procedure under Land Acquisition Act should had been adopted and the petitioner should had been suitably compensated. They cannot forcefully evict the petitioner from the land, of which the petitioner is the exclusive owner without following the procedure of law.
5. Given the said facts and circumstances of the case, this court is of the opinion that ends of justice would meet if the petitioner approaches the respondents No.3&4 by making a detailed representation in respect of the title and ownership of the land, who, in turn, after due verification, shall consider whether the said land is petitioner's private land or not. In case, if the petitioner's land is a private land, then appropriate proceedings under law should be drawn before evicting the petitioner and in case if the petitioner is entitled for compensation, appropriate compensation also should be paid to the petitioner before initiating eviction proceedings.
6. Let the petitioner approach the respondents No.3&4 within a period of 10 days from today who, in turn, shall take appropriate steps in accordance with law. Till a proceeding as per law is not taken by the respondents No.3&4, the respondents would be restrained from taking any eviction proceeding in terms of order dated 15.10.2019 (Annexure P/1) so far as petitioner is concerned.
7. With the aforesaid observations, the writ petition stands disposed of.
8. Certified copy today itself.

Sd/-
(P. Sam Koshy)
Judge