

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 28-01-2020

Passed on 08-05-2020

WP(C) No. 3114 of 2008

- M/s Geetanjali Construction (Colonizer, Developer and Builder) A Partnership Firm registered under Indian Partnership Act, 1956 through its partner Shri Sant Ram Sahu, S/o- Shri Mutan Ram Sahu, Aged about 53 years, R/o- Geetanjali House, Nehru Nagar, Ameri Road, Bilaspur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Urban Administration and Development Department, Mantralaya, D.K.S. Bhawan, Raipur (CG)
2. Municipal Corporation, Bilaspur, through its Commissioner, Municipal Corporation, Bilaspur, District Bilaspur (CG)
3. Commissioner, Municipal Corporation, Bilaspur, District Bilaspur (CG)
4. Development Officer, Municipal Corporation, Bilaspur, District Bilaspur (CG)
5. Gram Panchayat, Mangla, through its Secretary, village- Mangla, Tahsil and District Bilaspur (CG)

---- Respondents

For petitioner	:	Mr. Rajeev Shrivastava, Advocate.
For respondent No.1/State	:	Mr. Raghavendra Verma, GA
For respondent No. 2 to 4	:	Mr. A.S. Kachhawaha and Ms. Pushpa Dwivedi, Advocates.

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Order

1. This writ petition is preferred under Article 226 of the Constitution of India seeking direction to respondent No.2 to release the land of the petitioner which is reserved for Economically Weaker Section of the Society.

2. The case of the petitioner, in brief, is that the petitioner is a partnership firm and it was given permission to develop a colony styled as Geetanjali City, Face-II, in Khasra No. 1452/1, 1452/5, 1452/6, 1452/7, 13453/1, 1453/2, 1456/5, 1456/6, 1455/2, 1458/4, 1459/1 and 1459/2 total area 4.90 acres situated at village Mangla, District Bilaspur under the provisions of Chhattisgarh Nagar Palika (Registration of Colonizers, Terms and Conditions) Rules 1998 (for short, "the Rules 1998"). As per provisions of Rule 10 of the said Rules, a colonizer is required to reserve 15% plots of the land of the colony for persons belonging to Economically Weaker Section of the society. As per said schedule, if the land remained vacant for two years from the date of reserving, it may be released in favour of colonizer on deposit of the shelter fee at the rate prescribed. Petitioner firm is doing the work of developing the residential colonies and for this purpose, the petitioner is registered with respondent No.2 under the provisions of Rule 3 (4) of the Rules 1998. A copy of the registration certificate date 27-2-2004 is filed as Annexure P/3. Respondent No.3 refused to release the land of the petitioner, therefore, it is violative of

Rule 10 of the Rules 1998. Colonizer licence was granted to the petitioner on 27-2-2004 and 15% of the land was reserved for Economically Weaker section. The said land remained vacant for two years, therefore, the petitioner is entitled for release of the land in question.

3. On the contrary, learned counsel for the respondents would submit that the petitioner has constructed a Geetanjali City, Face II, at village Mangla, District Bilaspur which is situated at the outer limit of the Municipal Corporation Bialspur, therefore, Chhattisgarh Municipal Corporation (Registration of Colonizer, Terms and Conditions) rules 1998 is not applicable in the case of the petitioner. It is further submitted that before construction of the colony, the petitioner has not obtained legal permission especially colonizer licence and the permission for development of the colony. The petitioner moved an application for grant of colonizer licence before Sub Divisional Officer, Revenue Bilaspur who is licensing authority. A copy of the application dated 28-11-2008 is annexed as Annexure R/2/1. As per provisions of Rule 10 of CG Municipal Corporation (Registration of Colonizer, Terms and Conditions) Rule 1998 the petitioner was required to reserve 15% land for Economically Weaker Section. There was no such provision for returning of land at the time of grant the licence or renewal of licence, therefore, no case for returning of land is made out according to law and the Rules prevailing at the time of issuing licence and

renewal of licence. . The petitioner is only entitled for compensation as per Rules, therefore, petitioner is not entitled for any relief.

4. I have heard learned counsel for the parties.

5. The only question for consideration of this court is whether the petitioner is entitled for returning of land.

6. The case of the petitioner is regarding land bearing Khasra Nos. 1452/1, 1452/5, 1452/6, 1452/7, 13453/1, 1453/2, 1456/5, 1456/6, 1455/2, 1458/4, 1459/1 and 1459/2 total area 4.90 acres situated at village Mangla, District Bilaspur. Case of the petitioner falls within ambit of Section 292-A (3) of the CG Municipal Corporation Act, 1956 and Section 10 of the CG Municipal Corporation (Registration of Colonizer, Terms and Conditions) Rules 1998. Rule 10 of the Rules 1998 makes provisions for availing of plots/houses for Economically Weaker Section in the residential colony. Rules were amended by Government of Chhattisgarh on 14-7-2006 and again on by notification dated 26-3-2007. Fresh amendment was incorporated on 25-7-2008 whereas other Rules were substituted in Rule 10 with a new set of Rules. The case of the petitioner would be governed by unamended Rules because he was granted licence in the year 1996 which was subsequently renewed in the year 2000. In unamended rules, there is no such provision of returning of land to the colonizer which is reserved for Economically Weaker Section. The amended Rules which

came into force in the year 2006 and 2007 have no bearing with the case of the petitioner. On the date of issuance of colonizer licence and on the date of renewal of licence, the statute did not provide for release of land which is reserved for Economically Weaker Section. The land is reserved for Economically Weaker Section, therefore, it cannot be returned to the colonizer and the respondent No.3 is right in issuing possession warrant and taking possession of land in question. The petitioner is only entitled for compensation for the land in question as per valuation on the date of handing over the possession of land. It is not a case where the court can exercise its writ jurisdiction in such matters which have trappings of policy.

7. In view of the above, no case for exercise of jurisdiction under Article 226 of the Constitution of India is made out. Accordingly, the writ petition is liable to be and is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju