

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 229 of 2020**

Ashok Kumar Tiwari S/o Late Shri Rajendranath Tiwari Aged About 57 Years R/o Village Nayapara, Bodri, Tahsil Belha, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- **Petitioner**

Versus

1. Manish Jain S/o Madan Lal Jain R/o Through M/s Shrishti Infrabuilt, Second Floor, Krishna Sonchhatra Compound, Near Kotak Mahindra Bank, Shiv Talkies Chawk, Tahsil And District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Mohit Kumar S/o Late Kamal Nayan Tiwari R/o Through M/s Shrishti Infrabuilt, Second Floor, Krishna Sonchhatra Compound, Near Kotak Mahindra Bank, Shiv Talkies Chawk, Tahsil And District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
3. Tahsildar Bilha, Tahsil Bilha, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
4. Collector District Bilaspur, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
5. Joint Director Town And Country Planning, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
6. Chief Municipal Officer Nagar Panchayat, Bodri, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
7. Sub Divisional Officer (Revenue) Bilha, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

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For Petitioner	:	Mr. Abhijeet Mishra, Advocate
For State	:	Mr. Vikram Sharma, Dy. GA
For Res. No.1 & 2	:	Mr. Arvind Shrivastava, Advocate
For Res. No. 6	:	Ms. Sunita Jain, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

15/06/2020

1. The present writ petition has been filed for issuance of writ of mandamus to the respondents for cancellation of development permission issued in favour of the respondent No.1 & 2 on 11.12.2014.
2. Contention of the petitioner is that the respondent No.1 & 2 have purchased the properties situated in Khasra no.311 (2) and 311(1) and property of the petitioner is adjoining bearing land situated at Khasra No. 297/2.
3. The grievance of the petitioner is that respondent No.1 & 2 in the process of obtaining development permission has got the property demarcated and have encroached upon 0.5 Acres of land belonging to the petitioner.
4. According to the petitioner demolition conducted by the revenue authorities was not in accordance with law and the same was also found to be not proper by the High Court in WPC No. 1134/2019 decided on 15.11.2019. The said judgment of the Single Bench has been affirmed by the Division Bench in Writ Appeal No. 86/2020 which stood dismissed by the Division Bench of this Court on 20.05.2020.
5. Contention of the petitioner is that in spite of the fact that demarcation has been held to be not proper and State Authorities having been directed to conduct a fresh demarcation the respondents No.1 & 2 meanwhile should be restrained from carrying out any further construction on the said property. Else the petitioner's interest would be grievously prejudiced, as according to the petitioner his land is an agricultural land and the said land may lose its fertility in

the process of respondent No.1 & 2 continues with the construction work.

6. State counsel at this juncture submits that looking to the prevailing conditions the demarcation cannot be carried out as of now and as soon as the situation improves, the State Authorities shall take prompt action in getting the property demarcated.
7. Learned counsel appearing for the respondent No.1 & 2 submits that against the order passed by the Single Bench as well as by the Division Bench respondents intend to challenge the same before the Supreme Court. Moreover, according to the respondent No.1 & 2 so far as the petitioner is concerned he should be concerned only to the extent of alleged wrong demarcation being made and the development permit being granted to the extent of 0.5 Acres of land claiming to be the petitioners land and therefore the whole construction activity need not be stalled. According to the respondents the State Authorities would be carrying out demarcation in accordance with the directions given by this High Court and meanwhile the construction activities adjoining the petitioner's property to the extent of 0.5 Acres has already been stalled by the respondent No.1 & 2 as the abundant precaution. That he further undertakes that if at all still the revenue authorities on demarcation find that there is any encroachment upon the petitioner's land the respondents shall remove any construction made over there and shall hand over the peaceful possession back to the petitioner.
8. Given the aforesaid factual submissions that have been made by the counsel for the parties and also taking note of the fact that decision of this High Court in WPC 1134/2019 decided on 15.11.2019, this Court is of the opinion that the whole issue can be resolved on the revenue authorities carrying out the demarcation in accordance with law as

directed by this Court in WPC 1134/2019 at the earliest. This Court being fully aware of the ground reality as it situates presently on account of the Corona virus Pandemic it would definitely take some time for the revenue authorities in carrying out demarcation as directed by this Court. However, meanwhile the interest of the petitioner has also been taken care of and protected.

9. Given the aforesaid facts, accepting the contentions as have been stated by the counsel for respondent No.1 & 2, this Court directs that respondent No.1 & 2 shall not carry out any construction to the extent of 0.5 Acres of land belonging to the petitioner adjoining Khasra No. 311/1 and 311/2. Respondent No.1 & 2 are further restrained to ensure that no construction materials or heavy vehicles are permitted to travel from any those areas so that fertility of that land stands protected. However, construction in the remaining portion of the land belonging to the respondent No.1 & 2 in Khasra No. 311/1 & 311/2 can continue. Meanwhile, However State Authorities are directed to ensure that on priority basis, on the improvement in the situation as it stands today the demarcation as per the law shall be conducted so as to dissolve dispute once and for all.
10. With the aforesaid directions, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit