

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 654 of 2020**

1. Ram Kumar S/o Late Maniram Kalar Aged About 52 Years R/o Village Madanpur, P.S. And Tahsil Kharsiya, District Raigarh, Civil And Revenue District Raigarh, Chhattisgarh
2. Raj Kumar S/o Late Maniram Kalar Aged About 48 Years R/o Village Madanpur, P.S. And Tahsil Kharsiya, District Raigarh, Chhattisgarh
3. Devendra Kumar Darshan S/o Late Maniram Kalar Aged About 42 Years R/o Village Madanpur, P.S. And Tahsil Kharsiya, District Raigarh, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Collector, Raigarh, District Raigarh, Chhattisgarh
2. The Additional Commissioner Bilaspur Division, Bilaspur (Camp Raigarh) Chhattisgarh
3. The Sub Divisional Officer Revenue Kharsia District Raigarh, Chhattisgarh
4. The Nayab Tahsildar Kharsia, District Raigarh, Chhattisgarh
5. Guha Ram S/o Shri Shivdhan Kanwar R/o Village Madanpur, P.S. And Tahsil Kharsiya, District Raigarh, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. M.K. Sinha, Advocate
For State	:	Mr. Anshuman Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/03/2020**

1. The challenge in the present writ petition is to the order passed by the **Tehsildar** on 20.08.2019 in Case No. 57/2018-19.
2. The grievance of the petitioners is that the Tehsildar at the outset does not have a power to issue any injunction order against the petitioners in respect of the construction of house. The power so conferred is only with the competent Civil Court and not with the Tehsildar, therefore the same is bad.

3. The counsel for the petitioners further referred to the order dated 08.07.2019, passed in WPC No. 2248/2019, wherein this Court has ordered for maintaining status-quo in respect of the possession of the possession of the suit land till the next date of hearing. According to the petitioners, they are admittedly in possession of the property and they have a dwelling house over the said property, which needs certain maintenance and the maintenance/repairing of the house should not be restricted in any manner or else the petitioners would face irreparable loss.
4. The State counsel at this juncture refers to the order of the Tehsildar dated 20.08.2019, highlighting the fact that the observation of the Tehsildar seems to be in respect of certain additional constructions, which the petitioners intended to make by forcefully encroaching upon the disputed property, which has been restrained by the order of the Tehsildar.
5. The counsel for the petitioners makes a clear statement that the petitioners are not making any fresh construction in the said property, no extension of the house is being made, no extra new construction is being carried out, except for repairing and maintenance of the old existing house.
6. Given the said statement by the learned counsel for the petitioners, this Court is of the opinion that the impugned order Annexure P/1 dated 20.08.2019 passed by the respondent No.4 would be enforceable only in respect of any new construction which the petitioners are carrying out if any or have started construction subsequent to the order passed by the High Court in the aforesaid writ petition on 08.07.2019.

7. It is specifically made clear that the respondents would be having the powers for taking appropriate steps for removing any extra new construction that the petitioners are trying to make subsequent to the order passed on 08.07.2019, neither would the petitioners be permitted to change the nature of the structure in any manner.
8. The maintenance/repair works would be permissible only to the extent that the dwelling house of the petitioners is made habitable and the petitioners are not put to any inconvenience.
9. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved