

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 762 of 2020**

Sona Devi Wd/o Ramjivan Arya, aged about 60 years, R/o Kedarpur,
Ambikapur, District Surguja (CG)

Versus

1. State of Chhattisgarh through Secretary, Urban Administration and Development Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, New Raipur, District Raipur (CG)
2. Collector, Ambikapur, District Surguja (CG)
3. Commissioner, Municipal Corporation, Ambikapur, District Surguja (CG)
4. Tahsildar, Ambikapur, District Surguja (CG)
5. Nazul Officer, Ambikapur, District Surguja (CG)

---- Respondents

For Petitioner	:	Mr. Anurag Singh, Advocate
For State	:	Mr. Anshuman Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

06.03.2020

1. The challenge in the present writ petition is to the order Annexure P-1 dated 06.02.2020 passed by the respondent no.4. The order Annexure P-1 seems to be in continuity of an earlier order passed by this Court in WPC No. 1605 of 2016 dated 13.12.2016.
2. It would be relevant at this juncture to quote the directions given by this Court in the said writ petition i.e. WPC No. 1605/2016.

“5. In view of the fact that the authorities are putting only lip

service to the cause, ends of justice would be served if the Collector, Ambikapur, is directed to get the area in question demarcated jointly by the Municipal Corporation and the Tehsildar in presence of the members of the locality and thereafter, if any person is found to have encroached over the area causing obstruction in the right of way of the petitioner or other members of the locality, the encroachment be removed in accordance with law.

6. Let the demarcation be carried out within a period of 06 weeks from today and thereafter, if any encroachment is found, the same be removed within a period of 03 months thereafter.”

3. In pursuance to the order passed by this Court on 13.12.2016, it is said that a proceeding under Section 248 of the Chhattisgarh Land Revenue Code was initiated and vide Annexure P-6 dated 11.02.2017, a Panchnama was also prepared in the course of demarcation. According to the petitioner, when the demarcation was being done, the property stood in the name of Smt. Savitri Devi, the mother-in-law of the present petitioner who has since expired. The petitioner further makes a categorical statement that at the time of demarcation, no notice whatsoever was issued to Smt. Savitri Devi who was alive at that time and the entire proceedings have been done behind the back of the petitioner or her family.
4. At this juncture, counsel for the petitioner makes a categorical statement that the petitioner is in possession of the land situating in Khasra Nos. 219 & 220 which the ancestors of the petitioner had purchased way back on 08.07.1948 and since then they are in occupation of the said property and they have not encroached upon

any other personal land. He submits that if the revenue authorities had conducted proper demarcation in the presence of the petitioner after giving a notice, this fact could have been clearly ascertained and the dispute could have been easily resolved. Therefore, the impugned notice issued by the respondent no.1 be deferred as of now and the respondents may be directed to conduct a demarcation of the property particularly of Khasra Nos. 219 & 220 situated at village Kedarpur district Ambikapur and thereafter appropriate proceeding may be taken, if necessary.

5. State counsel submits that since there is a categorical denial by the petitioner of having encroached upon Khasra No. 221 and having made any sort of construction on the said khasra number, the whole issue could be resolved if a fresh demarcation is conducted with due notice to the petitioner ascertaining whether there is an encroachment upon Khasra No. 221 or not. State counsel further submits that if a fresh demarcation is conducted, the whole issue itself would stand resolved and the grievance of the petitioner also would stand redressed.
6. Given the said submission by the counsel for the parties, this Court also in furtherance to the order passed by this Court earlier on 13.12.2016 in WPC No. 1605/2016 directs the respondents 2 to 5 to conduct a fresh demarcation of the property in dispute i.e. Khasra Nos. 219, 220 and 221, after giving due notice to the petitioner who is the owner of Khasra Nos. 219 & 220 and the other persons to the dispute.
7. Let a fresh demarcation be done as early as possible and thereafter appropriate proceedings be initiated in accordance with law. It is made clear that any further action to be initiated by the respondents 2 to 5

pursuant to Annexure P-1 dated 06.02.2020 shall only be after fresh demarcation is done.

8. The writ petition accordingly stands disposed of.

**Sd/-
P. Sam Koshy
Judge**

Khatai