

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 989 of 2020**

1. Ali Ahmad, S/o Late Amanullaha, Aged About 43 Years, R/o Bhaiyathan Road Surajpur, Tahsil And Police Station: Surajpur, District : Surajpur, Chhattisgarh
2. Nisar Ahmad, S/o Late Rahmatullah, Aged About 65 Years, R/o Bhaiyathan Road Surajpur, Tahsil And Police Station: Surajpur, District : Surajpur, Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh Through Secretary, Department of Urban Administration Development, Mantralaya, Mahanadi Bhawan, Atal Nagar New Raipur, District : Raipur, Chhattisgarh
2. Collector, District : Surajpur, Chhattisgarh
3. Sub Divisional Officer (Revenue) Surajpur, District : Surajpur, Chhattisgarh
4. Tahsildar, Tahsil Surajpur, District : Surajpur, Chhattisgarh
5. Chief Municipal Officer, Nagar Palika Parishad, Surajpur, District : Surajpur, Chhattisgarh

---Respondents

For Petitioners	:	Mr. Govind Dewangan, Advocate
For State	:	Mr. V.R. Tiwari, Addl. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20.03.2020**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 06.03.2020 passed by the Tahsildar-Surajpur whereby the eviction notice has been issued to the petitioner for evicting the land situated in Patwari Halka No. 08 under Municipal Corporation-

Surajpur and the land situated at Khasra No. 1823/1 measuring 0.25 hectares.

2. The counsel for the petitioner submits that the petitioner is in possession of the said property way-back since 1946 onwards. That he has been paying all the taxes to the local body as well as to the Government regularly without any default. He further submits that the petitioner had moved an application for issuance of regular patta in-respect-of the aforementioned property, over which the petitioner is in possession since 1946. The counsel for the petitioner further submits that recently, the Municipal Corporation has already passed an order and recommended the issuance of permanent patta and in the said list, the name of the petitioner also finds place at Sr. No. 145. Thus, there is all likelihood that the Municipal Corporation shall issue a regular patta/lease in favour of the petitioner very soon. He further submits that meanwhile the respondent authorities have initiated the encroachment proceedings against the petitioner and where there has been an order passed on 23.06.2017 declaring the petitioner to be an encroacher under Section 248 of the Chhattisgarh Land Revenue Code.
3. The contention of the counsel for the petitioners is that the said order dated 23.06.2017 has not been communicated to the petitioners by either the authorities or by any of the interested persons. The counsel for the petitioners submits that one Mr. Mukesh Kumar Agrawal had filed a writ petition in the High Court seeking for the execution of the order dated 23.06.2017 vide WPC No. 536 of 2020 and this Court had directed the respondent authorities to take appropriate steps ensuring compliance of the same. The grievance of the petitioners is

that the said Mukesh Kumar Agrawal is the person, who is behind all the proceeding of encroachment which has been initiated and he has a vested interest over the said property, therefore, he has went upon in getting the petitioner evicted from the said land. He further submits that as such Mukesh Kumar Agrawal had no locus in filing the writ petition at the first instance.

4. The counsel for the petitioner further submits that even the said Writ Petition (C) No. 536 of 2020 has been disposed without affording any opportunity to the petitioner nor was any notice also issued to the petitioner, therefore, the impugned order Annexure P-1 as of now should be set-aside/quashed.
5. Having gone through the pleadings and the documents annexed with the writ petition, what clearly reflects is that the respondents had initiated a proceeding under Section 248 against the petitioner and there has been an order passed against him on 23.06.2017. The said order is an appealable order but it appears that the petitioner has not preferred an appeal against the said order.
6. Given the said facts and circumstances of the case, this Court is of the opinion that as of now, what is primarily required for the petitioner is to challenge the order dated 23.06.2017 before the appellate authority in-accordance-with law. Reserving the right of the petitioners, the writ petition stands disposed off. Subject to the petitioners preferring an appeal, the respondent authorities are expected to take a decision on merits, particularly taking note of the recent subsequent development where the Municipal Corporation itself on scrutiny having found the petitioners eligible for allotment of permanent patta over the said land. The documents of which would

be provided by the petitioners to the authorities along with all details. The concerned authorities would also while deciding the appeal, consider the fact that the petitioner is in possession of the property since 1946 and as per the petitioner, he has been paying regularly all the taxes applicable without any default.

7. It is further directed that meanwhile the petitioner is permitted to approach the Tahsildar in addition to his representation already made, if any, by making a fresh detailed representation seeking recall of the order dated 06.03.2020 supported with all relevant documents including the documents of the Municipal Corporation declaring the petitioner eligible for the issuance of regular patta, thus shall also be considered by the Tahsildar in accordance with law. The petitioner would also be at liberty of seeking a review of the order passed in WPC No. 530 of 2020.
8. With the aforesaid observation, the present writ petition, accordingly stands disposed-off.

Sd/-
(P. Sam Koshy)
Judge