

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1153 of 2020

Halimabai Memon W/o Hazi Mohammad Faruk Memon Aged About 63
Years R/o 6/251, Purwa Talkize Gali, Shitlapara, North Baster, Kanker
Tehsil And District Kanker Chhattisgarh **---- Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Public Works Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur, District Raipur Chhattisgarh.
2. Sub Divisional Officer Public Works Department, National Highway Sub Division Kanker, Kanker Chhattisgarh.
3. Collector Kanker, District Kanker Chhattisgarh.
4. Executive Engineer PWD, National Highway Division Jagdalpur Chhattisgarh.
5. Sub Divisional Officer (Revenue) Kanker, District Kanker Chhattisgarh.
6. Tehsildar Kanker, District Kanker Chhattisgarh
7. Chief Municipal Officer Municipal Council Kanker, District Kanker Chhattisgarh.,
8. National Highway Authority Of India Through Its Project Director National Highway No. 30, Regional Officer, Regional Office, Ministry Of Road Transport And Highways, Nh Campus, Pension Bada, Raipur Chhattisgarh.
9. Union Of India Through Secretary, Ministry Of Road Transport And Highways, Government Of India, New Delhi.

-----Respondents

For Petitioner	: Shri Priyank Rathi, Advocate
For State	: Shri V.R. Tiwari, Addl. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08.06.2020

1. The challenge in the present writ petition is to the impugned Annexure P-1 dated 31.05.2020 & 01.06.2020 passed by the Respondent No. 2.
2. The counsel for the petitioner submits that the dispute is in-respect-of the property which situates at Daily Market Manjhapara, Ward No. 12, Kanker i.e. Plot No. 50/1 sheet number 12 B ad-measuring 116 sq.

meters. The counsel for the petitioner submits that they are in possession of the said property for more than 3 decades and they have also duly issued lease/patta in their favour by the Respondent No. 3. The counsel for the petitioner further submits that earlier also in the year 2006, there was an attempt made by the State authorities for taking over the said property, however, the petitioner then had filed a writ petition i.e., WPC No. 7494 of 2006, which was disposed of on 10.01.2007, while disposing of the said writ petition, the High Court had specifically directed the State authorities to follow the procedure of law prescribed for taking the said property which includes provisions of National Highway Act. The further contention of the counsel for the petitioner is that without verifying whether the petitioner in fact is an encroacher or not ? Whether the petitioner has a duly issued lease /patta in their favour or not ?, the respondents have issued the impugned notice Annexure P-1.

3. Given the said submission by the counsel for the petitioner and also taking note of the fact that earlier a writ petition was filed by the petitioner, which stands disposed of on 10.01.2007 directing the State authorities to follow the legal procedure prescribed for taking over the property in dispute in-accordance-with law. This Court is of the opinion that the present writ petition also can be disposed of directing the Respondent No. 2 and 3 to first get the property of the petitioner verified in-respect-of his having a valid lease/patta in his favour or not and only thereafter proceed further in-accordance-with law. Till the Respondent No. 2 and 3 conduct a fresh enquiry and take/pass a fresh order, the impugned notice Annexure P-1 dated 31.05.2020 &

01.06.2020 shall not be acted upon.

4. Accordingly, the present writ petition stands disposed off.

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

Jyotijha