

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 1182 of 2020**

Raj Kumar Rathore S/o Shri Mahavir Singh Rathore Aged About 40 Years
R/o Tikrapara, Kanker, District- North Bastar Kaker, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Public Works Department, Secretariat, Mahanadi Bhawan, Atal Nagar, Raipur, Chhattisgarh
2. The Collector District North Bastar Kanker., District : Kanker, Chhattisgarh
3. The Sub-Divisional Officer National Highway, Public Works Department, Sub-Division Kanker, District- North Batstar Kanker, Chhattisgarh
4. Municipal Council Kanker, Through Its Chief Municipal Officer, Kanker, District- North Bastar Kanker.

---- Respondents

For Petitioner	:	Mr. Sandeep Shrivastava, Advocate.
For State	:	Mr. V.R. Tiwari, Addl. A.G.
For Respondent/s	:	Mr. U.N.S. Deo, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****11/06/2020**

1. The challenge in the present writ petition is to the notice issued by the respondents No. 3 & 4 on 31.05.2020 and 01.06.2020 respectively.
2. The contention of the counsel for the petitioner is that petitioner is in possession of land bearing Plot No. 43/6 in sheet number 12B ad-measuring 43 square meters, situated at village Manjhapara, Kanker.
3. According to the counsel for the petitioner, Petitioner has a lease over the said property for 30 years and the lease is valid uptill 31.03.2024. That he has already constructed a hotel/building over the said property and is running his hotel there. However, now the respondents No. 3 & 4 have issued Annexure P/4 and P/5 dated 31.05.2020 and 01.06.2020 seeking the petitioner to remove encroachment which has been made on the National Highway.

4. The Contention of the Counsel for the Petitioner is that Petitioner has not made any encroachment and entire building is within the lease hold property leased in the name of the petitioner.
5. The Contention of the Counsel for the respondent no. 4 is that there can be a possibility of the petitioner having deviated from the permission that was granted for construction of the hotel, he must have used the entire plot for the construction without leaving any open space. This aspect is disputed by the Counsel for the petitioner stating that the petitioner has left more than 10 feet open of land in front of his building, that the said 10 feet of land is within the lease hold property in his name.
6. Given the said facts and circumstances of the case, this Court is of the opinion that let petitioner approach the respondent no. 3 and 4 giving details of the property that he has in his name along with lease document etc., and also showing the respondents no. 3 and 4 that there is in fact no encroachment that he has made over the National Highway and he has constructed a building in accordance with the permission received for the same.
7. Let this aspect be verified by the Respondent No. 3 and 4 and only thereafter take an appropriate decision in accordance with law. Till a decision is taken in this regard, subject to the petitioner approaching respondent no. 3 by submitting sufficient details in this regard within 15 days from the date of receipt of copy of this order. The respondents are restrained till then from carrying out any demolition work of the structure which is in possession of the petitioner in the aforesaid property.
8. The writ petition accordingly stands disposed of.

Sd/-

(P. Sam Koshy)
Judge