

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No.1234 of 2020

1. Gajanand Agarwal S/o Late Shankar Lal Agarwal Aged About 64 Years R/o Kasyap Colony, Gali No. 5, Old Bus Stand, Bilaspur, Bilaspur, District Chhattisgarh State.
2. Manish Agarwal S/o Late Shankar Lal Agarwal Aged About 50 Years R/o Godpara, Subhash Nagar, Bilaspur, Bilaspur District Chhattisgarh State.
3. Vijay Kumar Bajpai S/o Late Narayan Prasad Bajpai Aged About 50 Years R/o Ashok Nagar, Rudra Vihar Phasse I, Chattidih, Bilaspur, Bilaspur, District Chhattisgarh State.
4. Ramesh Kumar Agarwal S/o Juggi Lal Agarwal Aged About 60 Years R/o Telepara, Bilaspur, Bilaspur District Chhattisgarh State.
5. Dharmendra Patel S/o Madan Bhai Patel Aged About 45 Years R/o Shubham Vihar, Bilaspur, Bilaspur District Chhattisgarh State.
6. Manoj Kumar Agarwal S/o Late Shankar Lal Agarwal Aged About 53 Years Telepara, Baiju Bageecha Road, Bilaspur, Bilaspur District Chhattisgarh State.
7. Malik Singh S/o Late Asha Singh Aged About 82 Years R/o Old Bus Stand, Telephone Exchange Road, Bilaspur, Bilaspur, District Chhattisgarh State.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Department of Revenue and Disaster Management, Mahanadi Bhawan, Atal Nagar, Raipur, Raipur District Chhattisgarh State.
2. Secretary Department of Urban Administration Mahanadi Bhawan, Atal Nagar, Raipur, Raipur District Chhattisgarh State.
3. District Collector District Collectorate, Bilaspur, Bilaspur District Chhattisgarh State.
4. Municipal Commissioner Municipal Corporation Bilaspur, Bilaspur District Chhattisgarh State.
5. Nazul Officer Bilaspur, Bilaspur District Chhattisgarh State.

---Respondents

For Petitioners	:	Shri K.R. Nair, Advocate.
For State	:	Shri Amrito Das, Addl. Advocate General and Shri Jitendra Pali, Dy. Advocate General.
For Municipal Corporation Bilaspur.	:	Shri Mateen Siddique, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12.06.2020

1. Defaults pointed out by the Registry for the moment stands ignored.
2. Challenge in this petition seems to be the notice of eviction issued by the respondent No.5 to the petitioners under Section 248 (1) of the

Chhattisgarh Land Revenue Code, 1959 (in short, the Code) for removal of the encroachments.

3. The contention of the petitioners is that the petitioners have lease in their favour issued way-back in the year, 1982-83 and since then the petitioners are operating their timber shops on the said land. Abruptly, now after a period of about 38 years the respondents have issued notices for removing the petitioners from the said piece of land. The counsel for the petitioners submits that the respondents should have firstly considered grant of alternative suitable land to the petitioners and secondly they should have granted some reasonable time to the petitioners before any co-ercive steps for removing them from the said land is initiated.
4. According to the petitioners, the notice under Section 248(1) of the Code was though dated 06.06.2020, but the same was delivered to the petitioners only on the second half of 11.06.2020 with an intimation that from 12.06.2020 i.e. from today onwards they will carry out demolition work from the said place.
5. Learned counsel appearing for the Municipal Corporation, Bilaspur, undertakes that he will pass instructions to the municipal authorities to grant at-least 7 days time to the petitioners for relocation from the present place and only thereafter they may take an appropriate recourse under law.
6. So far as consideration of claim of the petitioners for an alternative suitable land is concerned, the same can only be considered by the respondent No.3, subject to the petitioner's being entitled for the same under any of the rules, regulations or schemes applicable in the State.
7. Let the petitioners therefore approach the respondent No.3-Collector, Bilaspur with a claim for grant of alternative suitable land somewhere else

in lieu of the present land from where they may be dislocated. That, the respondent No.3, in turn, shall consider the same in accordance with rules, regulations and the scheme, if any, applicable including the aspect whether the petitioner would fall in a category in which they would be entitled for the same.

8. In the event if the petitioners make such an application, it is expected that the respondent No.3 shall take a prompt decision. However, this shall not hamper dislocation of the petitioners as of now for which the Corporation may give a clear 7 days period enabling the petitioners to shift before taking any co-ercive action.
9. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder