

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 1542 of 2020

Ranjeet Biswas S/o Jitendra Biswas Aged About 50 Years R/o Infront Of Anganbadi, Mana Camp District- Raipur, Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Revenue and Disaster Management Department, Mahanadi Bhawan, Atal Nagar, Raipur, Chhattisgarh New Raipur, Chhattisgarh.
2. The Collector, Raipur District Raipur, Chhattisgarh.
3. The Naib Tahsildar, Raipur District Raipur, Chhattisgarh.
4. Chief Executive Officer Nagar Panchayat, Mana Camp, Raipur, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Akash Kundu, Advocate.
For Respondent-State	:	Shri Sudeep Verma, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10.08.2020

1. The challenge in the present writ petition is to the order dated 26.06.2020 passed by the Naib Tehsildar, Raipur, ordering for removal of the encroachment over the property belonging to the Nagar Panchayat, Mana encroached upon by the petitioner and where the petitioner has been staying for more than two decades as has been pleaded.
2. The contention of learned counsel for the petitioner is that the petitioner is refugee who have come from East Pakistan after the war of 1971 and at that point of time he was made to settle down at Mana which later on became a Nagar Panchayat and since then the petitioner is residing at the said property and has been paying all the taxes and other dues to the concerned civic bodies. It is the further contention of the petitioner that abruptly now the respondents have initiated the removal of encroachment drive and in the process notices have been issued to the petitioner and he

had approached before the authorities and had sought for certain details in respect of the grounds on which he is being declared as an encroacher and has been asked to remove his construction. However, the request of the petitioner was turned down and on the same day the Naib Tehsildar is said to have passed the orders on 26.06.2020. The petitioner submits that at least the authorities could have granted sometime to the petitioner with which he could have convinced the authorities that he is not an illegal encroacher upon the said property. Rather he is a person who has been made to settle here as refugee long back and therefore he has a right to be resettled for rehabilitated at some other place if the petitioner is being removed from the present place.

3. The counsel for the State at this juncture submits that from the pleadings it does not appear that the petitioner has been able to establish his case of being a refugee and the place being a refugee camp or the petitioner having been permitted by the respondent authorities at any point of time for residing at the present place. Therefore, the petitioner does not have any right whatsoever over the said property. Moreover, the State counsel further drawing the attention of the impugned order submits that the petitioner has been noticed on various occasions but the petitioner did not avail those notices nor has he appeared before the authorities justifying his construction at the said place. Therefore, the order cannot be said to be bad.
4. Having heard the contentions put forth on either side and on perusal of records, when we consider the factual matrix of the case it appears that the petitioner has been staying at the said place for over two decades. There are documents to show that the petitioner has been paying the taxes and other dues payable to the civic bodies periodically. One should

not forget that at present it is monsoon season. In addition, the effect of the Corona Virus Pandemic is also creating lot of difficulties to the general public at large.

5. Given the said circumstances, this court is of the opinion that let the petitioner approach the office of the Naib Tehsildar, Raipur, within a period of 10 days from today by submitting all sorts of documents and other proof available with him to establish that he is not an encroacher and the Naib Tehsildar shall thereafter duly scrutinize the same and if required may give an opportunity of hearing to the petitioner and thereafter an appropriate decision in accordance with law be taken by the Naib Tehsildar.
6. Till the Naib Tehsildar takes a decision afresh, the impugned order dated 26.06.2020 shall not be given effect to. The petitioner also has a liberty of approaching the State authorities for seeking for an alternative location where he could settle down in life as he claims to be a landless person.
7. With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder