

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1575 of 2020**

Mukesh Shrivastava Son Of Late Shri B.B.L. Shrivastava, Aged About 55 Years, Resident Of Manjhapara Ward, Kanker, Tahsil-Kanker, District- North Bastar Kanker, Chhattisgarh

---- Petitioner**Versus**

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

---- Respondents

For Petitioner	: Mr. Mukesh Shrivastava, petitioner in person.
For State/R- 1, 3, 5 & 6	: Mr. Vivek Ranjan Tiwari, Addl. A.G.
For Respondents 2, 4, 8 & 9:	Mr. Himanshu Pandey, advocate, under instruction of the ASG

Hon'ble Shri Justice P. Sam Koshy
Order On Board

20.08.2020

1. The challenge in the present writ petition is to the notice Annexure P-1 dated 31.05.2020 issued by the respondent no.2 asking the petitioner to remove the illegal encroachment that he has done.
2. The contention of the petitioner is that he has been granted lease/Patta of the property that situates in Sheet No.12-A, Plot No.38/1 measuring 3960 square feet at village Manjhapara, Kanker. According to the petitioner, after obtaining Patta he has taken due permission and sanction from the authorities and has constructed his house on the said property and has been staying there for the last 3-4 decades. According to the petitioner, he has not encroached upon any government land whatsoever and his construction is purely within the property over which lease/Patta has been granted to him by the authorities. Hence, he cannot be declared to be an encroacher nor can he be dispossessed of the property without following due process of law. According to him, abruptly the respondents have now issued the impugned notice Annexure P-1 asking him to remove his temporary as well as permanent structure standing on the aforesaid property. According to the petitioner, the respondent authorities ought to have got the fact verified whether he is an encroacher or not, whether the said land is required for construction or widening of the National Highway or not, whether he has been duly issued a lease/Patta in his favour or not, whether any point of time the lease/Patta has been cancelled or not and only thereafter the State authorities could have

passed an appropriate order after following due procedure of law prescribed which includes the provisions of the National Highways Act and also the Right to Compensation etc.

3. Counsel appearing for the respondents submit that all the contentions raised by the petitioner are facts which need to be verified and which can be got verified by the authorities concerned.
4. Given the said submission by the counsel for the parties, particularly taking note of the documents filed by the petitioner along with his pleadings, this Court is of the opinion that the present writ petition can be disposed of directing the respondents, particularly respondent no.2 as also respondent no.7 to get the property of the petitioner duly demarcated and verified in respect of the observations made in the preceding paragraphs and only thereafter proceed in accordance with law. It is ordered accordingly.
5. Till the respondents 2 & 7 conduct an inquiry in respect of the same and pass a fresh order, the impugned notice Annexure P-1 dated 31.05.2020 shall not be acted upon.
6. The writ petition accordingly stands disposed of.

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