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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1897 of 2020**

1. Dayanidhi S/o Dibba Mahkul, Aged About 65 Years, R/o Village Golabuda, Tahsil Dharamjaigarh, District Raigarh, Chhattisgarh
2. Bhavani S/o Dayanidhi Mahkul, Aged About 48 Years, R/o Village Golauda, Tahsil Dharamjaygarh, District Raigarh, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary, Panchayat And Rural Administration, Ministry, Mahanadi Bhavan, Naya Raipur, District Raipur, Chhattisgarh
2. Collector Raigarh, District Raigarh, Chhattisgarh
3. Additional Tahsildar Kapu, Tahsil Dharamjaigarh, District Raigarh Chhattisgarh

---- Respondents

For Petitioners	:	Mr. Awadh Tripathi, Advocate
For State	:	Mr. Raghvendra Verma, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****04.09.2020**

1. The challenge in the present writ petition is to the order dated 09.06.2020 passed by the respondent no.3 whereby the respondent no.3 has issued an order against the petitioners staying further construction/renovations of his house failing which the respondent no.3 shall take coercive penal action against the petitioners.
2. The contention of the petitioners is that the said property is in their possession since ages right from the time of their ancestors. According

to the petitioners, they are not encroachers upon the said land and they are bonafidely residing there for long. Therefore, the impugned order is firstly bad and secondly the respondent no.3 could not have issued such an order particularly threatening the petitioners of taking penal action against them, a power which is not conferred upon him under the provisions of the Land Revenue Code.

3. State counsel, on the contrary, submits that it is only a notice issued by the Tahsildar. He submits that all the grounds which the petitioners have raised in the writ petition could be raised before the Tahsildar by appearing and submitting explanation. He further submits that the order Annexure P-1 seems to have been issued on a complaint made by one Smt. Sahodara and therefore, let the petitioners approach the Tahsildar and get the matter decided instead of approaching this Court under writ jurisdiction as there are certain disputed facts involved.
4. Given the said submissions by the counsel for the petitioners as also by the counsel for the State, this Court is of the opinion that the provisions of the Chhattisgarh Land Revenue Code provide for removing of encroachment if any. If the Tahsildar feels that the petitioners have encroached upon any land, the proper course would be to initiate an appropriate proceeding under law and declare him to be an encroacher and ask him to remove the illegal encroachment and only in the event of the petitioners not abiding by the award passed in an encroachment proceeding, the Tahsildar can take further coercive steps for implementation of his order.
5. Given the said facts, let the petitioners approach the Tahsildar by submitting detailed reply along with all relevant documents showing

their right over the said property. The Tahsildar in turn shall duly verify and scrutinize the same and thereafter if at all if the petitioners are found to be encroacher, the Tahsildar is expected to initiate proceedings against the petitioners in accordance with the Chhattisgarh Land Revenue Code.

6. Meanwhile, the respondent Tahsildar is restrained from initiating any penal proceeding against the petitioners arising out of Annexure P-1.
7. With the aforesaid direction the writ petition stands disposed of.

Sd/-
P. Sam Koshy
Judge