

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2504 of 2020**

Ramesh Kumar Sainik, S/o Late Shivvrat Lal Sainik, Aged About 80 Years,
R/o In Front Of New Bus Stand Bemetara Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary Department Of Public Works, Mahanadi Bhawan, Mantralaya, Atal Nagar Raipur Chhattisgarh
2. Collector Bemetara Chhattisgarh.
3. Sub Divisional Officer Public Works Department, Sub Division Bemetara Chhattisgarh.
4. Municipal Council Bemetara Through The Chief Municipal Officer, Bemetara Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Varun Sharma, Advocate
For State	:	Mr. Mateen Siddiqui, Deputy A.G.

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

19/10/2020

1. The present writ petition has been filed assailing the order passed by the respondent No.4 dated 01.10.2020, whereby the petitioner has been asked to remove the structure that is there in an area measuring 6.50 x 1.80 mtr. which according to the respondents falls between the National Highway 292/6 to 295/10.
2. According to the petitioner, it is a land where the petitioner has been residing for over a century and the said property has been inherited by him from his ancestors and Annexure P/2 is a document in this regard

which itself is a document of February, 1939, which established the possession of the petitioner over the said land. Moreover, the counsel for the petitioner refers to Annexure P/4, which again is a patta duly issued by the State Government. According to the petitioner, the respondents ought to have taken steps in accordance with Municipalities Act, where under the Municipalities Act, Section 194 provides for payment of due compensation before initiation of any eviction proceedings.

3. According to the State counsel, from the plain reading of the impugned order Annexure P/1 it clearly reflects that the encroachment is only on a small patch of land measuring 6.50 x 1.80 mtr., therefore it appears that the respondents are not interested in the entire land in possession of the petitioner, but only on the alleged portion, where there is an encroachment by the petitioner.
4. Given the said submission by the learned counsel for the State, this Court is of the opinion that ends of justice would meet if the writ petition is disposed of directing the petitioner to approach the respondent No.4 by moving a detailed reply/representation to the notice dated 01.10.2020 (Annexure P/1) along with all supporting documents in respect of the same.
5. Let the said reply/representation be submitted within a period of 15 days from today. Upon the petitioner furnishing the reply/representation, the respondent No.4 in turn shall duly consider the same and verify the facts from the details that the petitioner shall be providing including the documents dated 11.02.1939 passed by the Nayab Tehsildar, Bemetara and thereafter reach to a specific

conclusion and only thereafter the respondent No.4 shall proceed further strictly in accordance with the provisions of the Municipalities Act. Till a decision is taken by the respondents No.4 on the reply/representation to be made by the petitioner within 15 days, no coercive steps shall be initiated by the respondents pursuant to Annexure P/1. It is expected that the respondent No.4 shall take a decision at the earliest.

6. With the aforesaid observations, the present writ petition stands disposed of.

7. Certified copy today.

Sd/-
(P. Sam Koshy)
Judge

Ved