

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2538 of 2020

1. Devnath Bharti, S/o Hagru Bharti, Aged About 48 Years, R/o Mehar Para, Nawagaon - 1, (Nawagaon), Raipur, District : Raipur, Chhattisgarh
2. Pankaj @ Sanjay, Jyoti S/o Munna Singh Singh Jyoti, Aged About 35 Years R/o Sector - 28, Satnami Mohalla, Nawagaon - 1 (Nawagaon), Raipur, District : Raipur, Chhattisgarh
3. Kashi Ram Bharti, S/o Gokul Bharti Aged About 55 Years House No. 48, Naya Raipur, Kumharpara, Nawagaon - 01 (Nawagaon) Raipur, District : Raipur, Chhattisgarh

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Versus

1. State of Chhattisgarh Through Its Secretary, Department Of Urban Administration And Development, Mantralaya DKS Bhawan, Raipur, Present Address Mahanadi Bhawan, Atal Nagar, Raipur, District : Raipur, Chhattisgarh
2. Naya Raipur Development Authority Through The Chief Executive Officer, Naya Raipur Development Authority Mantralaya Near Mahanadi Bhawan, Raipur, District : Raipur, Chhattisgarh
3. Assistant Manager (Land) Naya Raipur Atal Nagar Development Authority, Atal Nagar Raipur, District : Raipur, Chhattisgarh
4. Collector Raipur, District : Raipur, Chhattisgarh

---Respondents

For Petitioners	:	Mr. Pawan Kesharwani, Advocate
For State	:	Mr. Sudeep Verma, Dy. G. A.
For Resp. No. 2 and 3	:	Mr. Anumeh Shrivastava, Advocate

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

03.11.2020

1. The challenge in the present writ petition is to the notice of eviction vide warrant of eviction issued to the petitioner vide Annexure P-1 dated 06.07.2020 and 07.10.2020 collectively.
2. According to the counsel for the petitioners, the petitioners are in occupation of the said land since more than 15-20 years and they are peacefully residing at the said place and also have got electricity connection and also paying the other fees/charges to the local body till now. Abruptly now, the petitioners are served with a notice of eviction. According to the counsel for the petitioners, at this juncture when the petitioners are forced to vacate the said place, they being persons who do not have any other alternate place to reside/rehabilitate or to take shelter at. It was also the contention of the counsel for the petitioners that the authorities while taking the appropriate eviction proceedings also should have taken care of the rehabilitation part. According to the counsel for the petitioners, the respondents should have considered granting an alternative land or accommodation elsewhere at which the petitioners should have thought of safely shifting without being put to great inconvenience which otherwise the petitioners may face if they are forcefully evicted from the present place. It was also the contention of the counsel for the petitioners that it is a monsoon season and now further that the impact of the Covid-19 pandemic also is still prevailing large in the area. Therefore, it would not be proper at this juncture to initiate

eviction proceedings which again will lead to great inconvenience and also threat to the society because of the impact of the Covid-19.

3. The learned counsel for the respondent no. 2 and 3/N.R.D.A on the contrary submits that except for the averments made in the petitioner by way of pleadings and by affidavit, the petitioners have not substantiated in any manner; so far as the period of occupation as claimed by them is concerned. Moreover, it was also contended by the counsel for the respondents, even otherwise there is no substantial document which has been produced by the petitioners by which it would be said that they had obtained any right over the said property. In the absence of any lease/substantial piece of evidence, the fact remains that the petitioners are the encroachers and therefore the impugned notice does not warrant any interference.
4. Having heard the contentions put-forth on either side and on perusal of record, if the pleadings are to be believed, the petitioners are in occupation of the said land over for the last 15 to 20 years. Of course this fact is a matter of verification from the material which the petitioner may produce before the authorities. Another aspect which needs consideration is that, whether the petitioners deserve a reasonable rehabilitation benefit inasmuch as of being provided an alternative piece of land somewhere-else, where they could take shelter upon being evicted from the present place.
5. Last but not the least, it is also required to be considered whether at this stage where the impact of Covid-19 pandemic is looming large in the State of Chhattisgarh, would it be justified for the authorities to

initiate eviction proceedings at this juncture where the petitioners themselves may find it difficult to obtain another shelter.

6. Considering all these facts, this Court is of the opinion that ends of justice would meet, if the petitioners are directed to approach the respondents no. 2 and 4 by moving an appropriate application in-respect-of their grievance and also in-respect-of their claim for an appropriate suitable alternative land wherein they can go and settle down along with their dependents. Let the petitioners make an appropriate application in this regard to both the respondent no. 2 and 4 within a period of two weeks from today and the respondents' inturn shall consider the same sympathetically in-accordance-with the provisions of land and also taking note of any of scheme of rehabilitation that could be made applicable; so far as the petitioners are concerned.
7. Till the respondent no. 2 and 4 take an appropriate decision on the said application which the petitioners shall be making within a period of 15 days' time from today, the respondents are restrained to take any coercive steps pursuant to the Annexure P-1 collectively issued to the petitioners.
8. With the aforesaid direction, the present writ petition stands disposed off.

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