

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2688 of 2020

Umesh Kumar Kacchap, S/o. Shri Sudhram Kacchap, Aged About 61 Years, R/o. Ward No. 31, Bhawna Nagar, In Front Of Anika Heights, Khamardieh, District - Raipur Chhattisgarh.

---- Petitioner

Versus

1. Municipal Corporation Raipur, Through Zone Commissioner, Zone No. 9, Municipal Corporation Office, Below Mowa Water Tank, District - Raipur, Chhattisgarh.
2. State Of Chhattisgarh, Through Secretary, Department Of Urban Administration And Development, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Utsav Mahiswar, Advocate.
For Respondent No.1	:	Mr. H.B.Agrawal, Sr. Advocate with Mr. Amit Tirkey, Advocate
For Respondent No.2	:	Ms.Sunita Jain, Govt. Advocate
For Intervener	:	Mr. B.P.Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

17.11.2020

1. Learned counsel for the petitioner submits that the petitioner has been served with a notice dated 21.10.2020 (Annexure P-1) wherein it is stated that the petitioner constructed a gate on the government land, which should be removed otherwise it would be demolished. The notice has been served by the Municipal Corporation to this effect. He further submits that the sale deed attached with the petition would show that the government land never existed in the alleged land and without any hearing the final verdict has been passed by Municipal Corporation that the construction has been made on the government land.

2. Learned counsel appearing for the respondent No.1 and intervener opposes the argument. The reference is made to the sale deed and submit that demarcation already exists in respect of subject land and Gate have been constructed over the road.
3. Perusal of the notice dated 21.10.2020 (Annexure P-1) shows that the petitioner has been served with a notice to remove certain construction which is alleged to have been made on the government land. Therefore, finality to the finding is already given by the authority. The said finality which is given by the authorities can always be tested before the competent Civil Court having jurisdiction and the finding of notice by an authority under Municipal Corporation cannot be accepted as conclusive proof. The issue needs to be ascertained.
4. Under the circumstances, the petitioner may approach to the competent Civil Court and may seek necessary redressal within a period of 30 days. Till then, *status quo* in respect of the subject issue and construction shall be maintained. This Court has not expressed any opinion on the merits of the case.
5. With the aforesaid observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Aks