

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (C) NO. 2761 OF 2020**

- Shivnarayan Nirmalkar S/o Late Aasharam Nirmalkar Aged About 60 Years
R/o Club Chowk Basantpur Ward No. 42, P.S.- Basantpur, Rajnandgaon, Distt.-
Rajnandgaon, Chhattisgarh

... Petitioner**Versus**

1. State Of Chhattisgarh Through- The Secretary, Department Of Urban Administration, Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh
2. The Collector District Rajnandgaon, Chhattisgarh
3. The Commissioner Municipal Corporation, Rajnandgaon, Chhattisgarh
4. The Tahsildar Tahsil Rajnandgaon, Distt.- Rajnandgaon, Chhattisgarh

... Respondents

For Petitioner	:	Mr. Rakesh Kumar Thakur, Advocate.
For Respondents 1, 2 & 4	:	Mr. Jitendra Pali, Dy. A.G.
For Respondent 3	:	Mr. Sourabh Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****09/11/2020**

1. Grievance of the petitioner in the present writ petition seems to be alleged action taken by the respondents by issuing notice dated 20.10.2020 whereby the petitioner has been directed to remove the illegal construction that he has made.
2. Contention of the counsel for the petitioner is that the property is a private property owned by the petitioner which he has purchased by way of a registered sale deed executed way back in the year 1999. The property situates in Khasra No. 17/4, P.H. No. 35/1, measuring .02 dicimile.
3. According to the learned counsel for the petitioner, the petitioner has also constructed a house over the said property after due permission and sanction from the authorities concerned and now vide the impugned notice the respondents are threatening to demolish a part of the house of the petitioner calling it to be an illegal construction.
4. At this juncture, counsel for the municipal corporation submits that the whole issue can be resolved in case if the property of the petitioner is duly demarcated by the Nazul Officer in accordance with law and in case if any construction made by the petitioner is found to be beyond the area owned by the petitioner, appropriate action shall be taken only on that portion.

5. Meanwhile, counsel for the municipal corporation also submits that in the event if the municipal corporation for the purpose of construction/widening of road requires a portion of the petitioner's property then appropriate steps would be taken by the corporation for suitably compensating the petitioner in accordance with law before any demolition activity further is carried out.
6. The said submission by the counsel for the municipal corporation is acceptable to the petitioner.
7. Accordingly, the present writ petition is disposed of directing the municipal corporation to get the property of the petitioner first demarcated and then to ascertain whether any illegal construction has been carried out beyond the property owned by the petitioner. It is also directed that in case in the event if the petitioner's property is required by the municipal corporation for widening of road and then also the respondent corporation should take appropriate steps for suitably compensating the petitioner in accordance with law and only thereafter proceed further with the notice which has now been issued on 20.10.2020.
8. The state authorities are directed to render full cooperation to the municipal corporation for getting the property promptly demarcated.
9. Writ Petition accordingly stands disposed of with the aforesaid direction/observation.

/Sharad/

Sd/-
(P. Sam Koshy)
JUDGE