

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 3132 of 2016**

1. Dayanand Sharma S/o Late Shri Babulal Sharma, Aged About 57 Years R/o Shiv Mandir Chowk, Kailashpuri, Raipur, District Raipur Chhattisgarh, Chhattisgarh
2. Kedar Nath Sahu, S/o Late Shri Kanta Prasad Sahu, Aged About 51 Years R/o Shiv Mandir Chowk, Kailashpuri, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. Munni Devi Yadav, W/o Shri M. D. Yadav, Aged About 74 Years R/o Shiv Mandir Chowk, Kailashpuri, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
4. Chandrajeet Yadav, S/o Shri M. D. Yadav, Aged About 34 Years R/o Shiv Mandir Chowk, Kailashpuri, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary Department Of Urban Administration, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh, Chhattisgarh
2. Municipal Corporation, Raipur Through Municipal Commissioner Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. Zone Commissioner, Zone No. 6, Municipal Corporation Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
4. Collector, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Shantam Awasthi, Advocate
For Res. No.2 & 3	:	Mr. H. B. Agrawal, Sr. Advocate with Mr. Pankaj Agrawal, Advocate
For State	:	Mr. Jitendra Pali, Dy. AG

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/07/2020**

1. The present writ petition has been filed challenging the notice dated 07.12.2016 (Annexure P-1) whereby the petitioners were directed to vacate

the premises within 24 hours enabling the respondents to construct and widen the main Road 3, from Budhapara to Mahamaya Temple.

2. Contention of the petitioner is that the petitioners have constructed houses over a land situated at Patwari Halka No. 106(A)/46 in Khasra No.1906. The contention of the petitioner is that the said property is a private property exclusively owned by the one Shri Virendra Kumar Daga from whom the petitioners took possession and petitioners are residing in the said house for the last more than 2-3 decades. The contention of the petitioners also is that they have obtained electricity connection and they are also paying tax for the said property uninterruptedly.
3. However, to the surprise of the petitioners, the respondents have issued a notice asking the petitioners to vacate the premises within 24 hours and to occupy the house under the B.S.U.P. Scheme. According to the petitioners since the said property situated in Khasra No.1906 is a private property the respondents could not have proceeded for construction of road over private property, unless the same is acquired in accordance with the law governing the field. Further contention of the petitioners is that so far as respondents are concerned they should have actually got the property demarcated which stands in the name of Virendra Kumar Daga i.e. Khasra No.1906 and if it is found to be a government land encroached upon by the petitioners only then should they carry out the demolition of the area which is said to have been encroached by the petitioners.
4. Counsel for the respondent, on the other hand submits that petitioner does not have any title or ownership over the said property situated at Khasra No.1906. It is the further contention of the counsel for the respondent that property over which the notice has been issued is in fact a government land which was earlier leased to the petitioner but the lease has since been cancelled and thereafter the petitioner does not have any right. The further contention of the Respondents are that even if it is a private property the

original owner does not seem to have any objection as he has not raised any challenge. Contention of the learned counsel for the respondent also is that so far as construction of road is concerned, the same would be only upon the government land and respondents do not intend to enter upon any private persons property for the purpose of construction and widening of road.

5. Given the submission made by the counsel for the parties, this Court is of the opinion that whole dispute itself can be resolved if the property is verified as to whether it is a private property or whether it is a government property. In case, if it is a private property it is directed that unless the same is acquired in accordance with provision of law further widening and construction of road over that part of area should not be carried out. However, in case if the property is found to be exclusively the government land over which either the Patta or lease was granted to either the petitioner or the said Virendra Kumar Daga. The petitioner thereafter may not have any right on the government land to stick on to the said property. In that circumstance, offer which is made by the Corporation by allotting each of the petitioners residential houses so as to resettle and rehabilitate the possession should be accepted by the petitioner. Counsel for the respondent Municipal Corporation, Raipur has also produced a document dated 10.07.2020 which clearly reflects clear allotment of houses being made in favour of the each of the petitioners which will be abided and honoured by the respondents after due verification of the records.
6. Let respondent Municipal Corporation get the property duly verified the property which situated at Khasra No.1906 in Patwari halka No.106 (A)/46 ascertaining whether it is government land or private property.
7. Meanwhile, it is ordered that till the verification part is done by the respondents, no coercive steps shall be taken pursuant to the Annexure P-1 dated 07.12.2016.

8. Needless to mention, the State Government would render all necessary cooperation in verification as well as in demarcation of the property so far as Khasra No.1906 in Patwari Halka No.106 (A)/46 is concerned.
9. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit