

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 2847 of 2020

Dinesh Kumar Gupta S/o Late Shri Shiv Kumar Gupta Aged About 64 Years R/o Sadar Bazar, Sarafa Line, Main Road Bilaspur, Tahsil and District Bilaspur Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Collector, Office of Collector, Bilaspur, District Bilaspur Chhattisgarh.
2. Tahsildar, Office of Tahsildar, Bilaspur, District Bilaspur Chhattisgarh.
3. Collector Land Records, Bilaspur, District Bilaspur Chhattisgarh.
4. Superintendent of Police Bilaspur, District Bilaspur Chhattisgarh.
5. Indra Mohan Tah S/o Late Satyanarayan Tah Aged About 68 Years R/o Police Line Bilaspur, Tahsil and District Bilaspur Chhattisgarh.

---Respondents

For Petitioner	:	Shri Arvind Shrivastava and Shri Anumeh Shrivastava, Advocates.
For Respondent-State	:	Shri Rahul Jha, Govt. Advocate.
For Respondent No.5	:	Shri Kishore Bhaduri, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

19.11.2020

1. The present writ petition has been filed challenging the action on the part of the respondent-revenue authorities in demarcating the property owned by the respondent No.5 in contravention to two of the orders passed by this court firstly in WPC No.4425 of 2019, decided on 09.12.2019 and secondly WPC No.2457 of 2020, decided on 27.10.2020. For ready reference, the relevant portion of the two orders passed by this court would be necessary to be reproduced hereinunder:

WPC No.4425 of 2019.

"5. Given the said facts & circumstances of the case, this Court is of the opinion that, ends of justice would meet, if the respondent no. 2 is directed to consider the objections of the petitioner i.e. Annexure P-7 dated 22.11.2019 & Annexure P-8 dated 23.11.2019, at the earliest preferably within a period of 15 days from the date of receipt of copy of this order.

6. Meanwhile, respondents are directed to maintain status quo as it stands today on the demarcation application moved by the respondent No. 3 till the respondent No. 2 takes a decision on the objections of the petitioner.

7. Needless to mention that if the proceedings have been concluded and decision has been taken then the petitioner would be at liberty to challenge the same before the appropriate forum.

WPC No.2457 of 2020

“5. Once when this Court in WPC No. 4425/2019, which got disposed of on 9.12.2019, has directed the respondent authorities to consider the objections, that the Petitioner has filed, to be decided first before proceeding further with the demarcation proceeding, this Court does not see any good reason why the said order should not be honoured with by the Respondents before proceeding further with the demarcation case.

6. Given the said facts, the present Writ Petition is also disposed of directing the Respondent - State Government to ensure that the order dated 9.12.2019 passed by this Court in WPC No. 4425/2019 be duly complied in letter and spirit and the objections that the Petitioner has raised be also considered before deciding the matter on its own merits. It is expected that the respondent authorities would ensure that the orders of this Court should not be circumvent on extraneous consideration.”

2. Subsequently, the present writ petition now has been filed alleging that the respondents seem to have proceeded further and have allegedly submitted a report conducting of the demarcation to the Collector. The specific contention of the petitioner is that there appears to be some intrusion upon the petitioner's property in the course of demarcation of the property belonging to the respondent No.5. Moreover, the petitioner has not been granted any opportunity of hearing, nor was he ever intimated about the demarcation being done so far as the property of the respondent

No.5 is concerned and the entire report and the correspondences made by the authorities are all behind the back of the petitioner and which are in total contravention to the orders passed by this court in the above referred two writ petitions.

3. At the outset, this court is of the opinion that the dispute seems to be more a pure private property dispute between the petitioner and the respondent No.5. The whole dispute revolves around the alleged demarcation of the property belonging to the respondent No.5 which is said to have been conducted. That as far as petitioner is concerned the specific plea of the petitioner is that he is the owner of the property that situates at Khasra No.226 and 229, P.H. No. 22/34 at Juna Bilaspur.
4. The counsel appearing for the respondents submits that the respondents in no way are trying to either dispossess the petitioner from their property or encroach upon the petitioner's property which stands in his name. The demarcation that has been conducted is exclusively in respect of the property belonging to the respondent No.5.
5. Given the nature of dispute that has arisen, as of now this court is of the opinion that the dispute can be resolved by disposing of the writ petition at this juncture directing the petitioner to approach the revenue authorities for demarcation of his own property i.e. the property which he owns and situates at Khasra Nos. 226 and 229, PH No.22/34 at Juna Bilaspur. That for this the petitioner should approach the State authorities within a period of seven days from today by moving an appropriate application and by completing all the requisite formalities required for demarcation. Upon moving such application, the respondent State authorities are directed to ensure that the property of the petitioner is demarcated on priority basis

within a period of 15 days from the date of receipt of the request letter which he has to make within 7 days as mentioned above.

6. Till the demarcation of the petitioner's property is done, the respondents including the respondent No.5 is directed to maintain status quo in respect of the status of the property as it situates today. Subsequently, in the event if the petitioner has any more grievance in respect of the said property, the only remedy which the petitioner would have would be by approaching the concerned Civil Court by way of filing of an appropriate suit for ventilating his grievance.
7. Needless to mention that in addition to the petitioner moving an appropriate application for demarcation, he would also render full co-operation. At the same time, the revenue authorities are also expected to fairly conduct the demarcation with specific notice personally being served upon the petitioner so far as date and time of demarcation is concerned.
8. The writ petition accordingly stands disposed of. No order as to costs.

Sd/-
(P. Sam Koshy)
Judge

inder