

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 4743 of 2019

Omprakash Agrawal S/o Late Ram Kishun Agrawal Aged About 62 Years
C/o Agrawal Kirana Store, Station Road Akaltara, District- Janjgir-Champa,
Chhattisgarh.

---Petitioner(s)

Versus

- 1.** State of Chhattisgarh Through The Secretary, Department of Urban Administration And Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District- Raipur, Chhattisgarh.
- 2.** Chief Municipal Officer Municipality Akaltara, District- Janjgir-Champa, Chhattisgarh.
- 3.** Rakesh General Store Through Vinod Hotchandani, Station Road Akaltara, District- Janjgir-Champa, Chhattisgarh.

---Respondents

For Petitioner	:	Shri JK Gupta, Advocate.
For State	:	Shri Ayaz Naved, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12.02.2020

- 1.** The relief sought for by the petitioner in this petition is for an appropriate direction to command the respondent No.2 to take action against the respondent No.3 who is alleged to have been illegally encroached upon the land of the petitioner and carrying out certain construction.
- 2.** Perusal of record would reveal that there was a civil dispute between the petitioner and the respondent No.3 which traveled up till the High Court in First Appeal No.80 of 1996. The First Appeal was partly allowed and disposed of on 09.10.2012 with the following observations :

“Consequently, the appeal is partly allowed. The respondents herein are entitled for the properties and claims to the extent of their share allotted in Will Ex. P/3. Counter claim of the original defendants is decreed to the extent of claims not covered by the Will. The case is remitted back to the trial Court for specific allocation and allotment of share on the

basis of will and counter claim and to pass decree afresh.

Parties shall present before the trial Court on 26.11.2012”

3. It is said that the execution case pursuant to the judgment passed in First Appeal No.80 of 1996 is already under process before the concerned Civil Court.
4. Given the fact that the matter is seized in the execution proceeding, this court is of the opinion that it would not be justified for this court to entertain this writ petition and pass any order. It would be more appropriate for the petitioner to approach the concerned Civil Court and move appropriate application for injunction in accordance with directives given by this court in First Appeal No.80 of 1996.
5. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder