

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 27 of 2021**

- Dilip Jaiswal S/o- Late Dukhiram Jaiswal Aged About 45 Years Occupation- Agriculturist Cum Business, R/o- Beltara, Police Station Ratanpur, Tahsil And District- Bilaspur (Chhattisgarh) Mo. No.- 9009052206

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, New Mantralaya, Atal Nagar Raipur, Tahsil And District- Raipur (Chhattisgarh)
2. Collector Bilaspur, District Bilaspur (Chhattisgarh)
3. Chief Executive Officer Janpad Panchayat Bilha, Tahsil- Bilha, District- Bilaspur (Chhattisgarh)
4. Sub-Divisional Officer Rural Engineering Service Bilaspur, Tahsil And District- Bilaspur (Chhattisgarh)
5. Gram Panchayat Beltara Through Sarpanch Beltara, Tahsil And District- Bilaspur (Chhattisgarh)

---- Respondents

For Petitioner : Shri Ratnesh Kumar Agrawal, Advocate

For Respondents/State : Ms. Akanksha Jain, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri**Order****13/01/2021**

1. Heard.
2. The nature of relief claimed by the petitioner that the petitioner is claiming an easementary right over the land which is adjacent to his land and the prayer is made that no construction of toilet be made on the land which is in front of the land of the petitioner, this nature of relief as has been made appears to be

cognizable by the competent civil court as necessarily it would require evidence and involves disputed question of fact. Even otherwise, Section 33 of the Indian Easements Act, 1882 (for short 'the Act, 1882') provides that in cases of such nature wherein such right is claimed, suit is required to be instituted before the competent Court. Therefore, since the disputed question of facts is involved as to the identity and demarcation of the plot and the disputed construction, this Court is not inclined to exercise its power under Article 226 of the Constitution of India.

3. Accordingly, the petition is dismissed. However, the petitioner shall be at liberty to file the civil suit, if so advised.

Sd/-
Goutam Bhaduri
Judge

Ashu