

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 80 of 2021

Pritesh Surana, S/o. Goutan Chand Ji Surana, Aged About 29 Years, R/o. Brahman Para, Ward No. 33, Rajnandgaon, District Rajnandgaon Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through the Secretary, Urban Administration Development Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh.
2. Collector, Rajnandgaon, District Rajnandgaon, Chhattisgarh.
3. Commissioner, Municipal Corporation, Rajnandgaon, District Rajnandgaon, Chhattisgarh.
4. Sub Divisional Officer, Revenue, Rajnandgaon, District Rajnandgaon, Chhattisgarh.
5. Tahsildar, Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- Respondents

For Petitioner : Shri Pramod Ramteke, Advocate

For State/Respondents No.1, 2, 4 & 5 : Shri Ravi Bhagat, Dy. Govt. Advocate

For Respondent No.3 : Shri Sandeep Dubey, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

23.09.2021

Heard

1. The grievance of the petitioner is that without any service of notice, part of the boundary wall was demolished by the Municipal Corporation.
2. It is contended that the petitioner is owner of the land bearing No.15 and is owner in occupation of an area 29 sq.mtr., which was purchased from the recorded owner of the land i.e. Smt. Shailendri Bai & Others. It is contended that certain part in addition to 29 sq.mtr. i.e. 17.38 sq.mtr. was encroached by the petitioner for construction of boundary wall and some ancillary construction. The Municipal Corporation has demolished the boundary wall and part of the house without giving any opportunity of hearing to the

petitioner. It is further submitted that the petitioner has already filed an application for settlement of the part of 17.38 sq.mtr. of land (encroached one) which is pending consideration at the end of the Nazul Officer, Rajnandgaon and the State Government has also proceeded to grant such land, however, it has not been finalized. Therefore, till such process is finalized by the State within stipulated time, further demolition may not be carried out.

3. Learned State counsel would submit that in respect of the encroached land to the extent of 17.38 sq.mtr., already the process has been commenced and certain correspondence are being made.
4. Considering the facts of this case, the petitioner appears to be owner of the land admeasuring 29 sq.mtr. at Brahmanpara as per Annexure P-2, the Maintenance Khasra. The petitioner however has encroached upon a part of Government land admeasuring 17.38 sq.mtr. The documents would show petitioner has made application for settlement of such land in his favour. The letter which is placed on record i.e. of the Deputy Director of Town & Country Planning, Rajnandgaon dated 10.03.2021 would show that the communication has been made to the Nazul Officer wherein the application has been filed by the petitioner to grant such part of encroached land in favour of petitioner subject to fulfillment of conditions. The letter purports that the State Government has accorded permission to the Nazul Officer on fulfillment of the condition the allotment of the land and as per the State policy the grant may be considered. Since the part of encroachment which has been made by the petitioner is under consideration to be settled in his favour as is evident from the letter dated 10.03.2021, it is directed that the respondent shall conclude the proceeding for consideration of grant of land of 17.38 sq.mtr., which is encroached upon by the petitioner within a period of 60 days and till such application is concluded, no demolition may be carried out.

5. In view of the aforesaid observation, the petition stands disposed off.

Sd/-
Goutam Bhaduri
Judge

Aks