

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 145 of 2021

Raju Gupta, S/o. Late Dhaniram Gupta, Aged About 61 Years, R/o. Old Bus Stand, Nayak Bandha, Abhanpur, Tahsil Abhanpur, District Raipur, Chhattisgarh 493661

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Its Principle Secretary, Panchayat And Rural Development Department, Mahanadi Bhawan, Atal Nagar, Naya Raipur, Tahsil And District Raipur, Chhattisgarh
2. Nagar Panchayat Abhanpur Through Its Chief Municipal Officer, Nagar Panchayat Office Abhanpur, National Highway 43, Near Police Station Abhanpur, Tahsil Abhanpur, District Raipur, Chhattisgarh Pin-493661

---Respondents

For the Petitioner : Mr. Suryapratap Yuddhveer Singh, Advocate.

For the State : Mr. Somkant Verma, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

19.01.2021

1. The present writ petition is filed against the notice dated 30.12.2020 (Annexure P-1) whereby the petitioner has been asked to remove the encroachment over the government land or otherwise the encroachment would be removed as road and drain is to be constructed.
2. Learned counsel for the petitioner would submit that the petitioner is the occupant of Abadi land bearing Kh.No.760/2 and he has not encroached upon any government land and for the hotel the taxes have been paid which would be evident from the receipt which are

attached right from 2014 to 2019. Therefore the demolition as has been proposed in respect of the government land may be stayed.

3. Learned counsel for respondent No.2 would submit that the petitioner has an alternate remedy to file appeal under Section 308 of the Chhattisgarh Municipalities Act, 1961, therefore the petitioner may very well agitate his grievance before the appellate authority by filing an appeal.
4. Learned State counsel also opposes the argument and would submit that the petition is premature.
5. The notice purports that the petitioner is shown to have encroached upon the government land. Prior to the final notice dated 30.12.2020 (Annexure P-1), earlier another notice was also served on 08.12.2020 wherein similar contents have been stated. Since no document exists in respect of allotment of Abadi land in favour of the petitioner and the petitioner claim that he has constructed the shop before the municipality came in to being and is in possession of Abadi land for which taxes have been paid, it can only be ascertained by necessary demarcation and verification of documents. Three tax receipts have been placed on record issued by the Nagar Panchayat, Abhanpur.
6. Under the circumstances, respondent no.2 is directed to demarcate the government land on which the construction is sought to be made and shall also consider the case of the petitioner as to whether the tax was paid for occupation of the superstructure and the Abadi land. Thereafter after due verification of the documents and demarcation respondent no.2 shall arrive at the conclusion by a speaking order. In the meanwhile, till such conclusion is arrived at, the petitioner shall not be removed by any forcible dispossession and the enquiry may be conducted within a further period of 60 days from the date of receipt of this order. If the petitioner feel aggrieved by the decision taken by

the respondent No.2, he shall also be at liberty to challenge the same before the appropriate civil competent Court.

7. With the above observation/direction, this writ petition stands finally disposed of.

Sd/-

**GOUTAM BHADURI
JUDGE**

Aks