

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(C) No. 318 of 2021

Ashok Kumar Tiwari, S/o. Jagannath Prasad Tiwari, Aged About 48 Years,
R/o. Shrikant Verma Marg, Vaishali Nagar, Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Revenue And Disaster Management, Mantralaya, Atal Nagar, New Raipur, District- Raipur, Chhattisgarh.
2. State Of Chhattisgarh, Through The Secretary, Department Of Urban Administration, Mantralaya, Atal Nagar, New Raipur, District- Raipur, Chhattisgarh.
3. The Collector, Bilaspur, District- Bilaspur, Chhattisgarh.
4. Sub-Divisional Officer (Revenue) Bilaspur, District- Bilaspur, Chhattisgarh
5. The Tahsildar, Tehsil Bilaspur, District- Bilaspur Chhattisgarh.
6. The Commissioner, Municipal Corporation (Nagar Nigam-Bilaspur), District- Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Anshuman Shrivastava, Advocate
For State	:	Mr. Gagan Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28.01.2021

Heard

1. By the instant petition, it is highlighted that at village Khamtarai, P.C. No.17/25 Tahsil & District Bilaspur, the government land and the canal have been encroached upon by one Satish Singh and others and the road has been constructed.
2. Learned counsel for the petitioner would submit that the complaint was made to the Tahsildar and the Revenue Authorities initially by an order dated 07.01.2021 given a direction to demarcate the land. He submits Annexure P-5 would show that the land after demarcation it was found that khasra No.3 wherein the government canal existed and the land bearing khasra No.5/1 which is a government grass land have been encroached

upon and the roads have been prepared and further process have been made to construct the house. Therefore, the Tahsildar may be directed to proceed under Section 132, 133 read with Section 248 of the Land Revenue Code and remove the construction.

3. Perusal of the documents would show that the land was demarcated and according to the report of the Patwari dated 12.01.2021, prima facie, it was found that Satish Singh and other peoples have encroached upon the land wherein the canal and the government grass land exists. The canal bears khasra No.3 and the government grass land bears khasra No.5/1.
4. Since the proceedings have already been taken up by the revenue authorities but at the same time till the proceedings are concluded, if Annexure P-5 which projects that the encroachment have been made is allowed to continue then it may completely destroy the water body and stream which may become irresolvable. Under the circumstances, since the construction is said to be in the initial stage, the Tahsildar is directed to conclude the proceeding by resorting to the statute under Section 132, 133 read with Section 248 of the Land Revenue Code within a period of 60 days. Considering the nature relates to water body and taking into the principles laid down in *Jagpal Singh & Ors. v. State of Punjab & Ors* reported in (2011) 11 SC 396, it is further directed that the construction which is being made shall be stopped forthwith so that further damage to the canal which has a nexus to the water body be stopped. The Tahsildar is further directed to take all the steps to ensure the compliance and if need be, he shall be free to take coercive method.
5. With the aforesaid observation, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge