

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1176 of 2021

Smt. Mubarak Begum W/o Shri Mahmood Khan, Aged About 62 Years R/o House No. 77, Shanti Nagar Ward No. 35, Balco Nagar, District Korba Chhattisgarh.

---- Petitioner

Versus

1. Bharat Aluminum Company Ltd, Balco, Through Its CEO And Whole Time Director, Bharat Aluminum Company Ltd, Balco Nagar, Korba, District Korba Chhattisgarh.
2. State Of Chhattisgarh, Through Its Special Secretary, Department Of Industries And Commerce, Government Of Chhattisgarh, Mahanadi Bhawan, Naya Raipur Chhattisgarh.
3. The Collector, Korba, District Korba Chhattisgarh
4. The Tahsildar Korba, District Korba Chhattisgarh.

Respondent No. 2 To 4 are arrayed, as they are necessary party in the instant case.)

---- Respondents

For petitioner – Shri Ashutosh Shukla, Advocate.

For State – Ms. Sunita Jain, G.A.

For respondent No.1- Shri Abhishek Sinha, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

01/03/2021

Heard.

1. Grievance of the petitioner is that the petitioner's land was acquired on 31/07/2014 by way of a sale deed and during the execution of the sale deed undertaking was given on 23/05/2013 (Annexure P-2) that the similar land would be given to the person who are being displaced. It is contended that now civil suit has been filed for ejectment by the respondent No.1 Bharat Aluminum Company Limited. He would submit that therefore the respondent may be restrained to eject the petitioner and the civil suit be quashed.
2. Learned counsel for respondent No.1 would submit that the civil suit since is pending, therefore there cannot be two simultaneous proceeding on the same

facts.

3. Perusal of the record shows that it contains copy of the plaint. Averments of the plaint purports that a sale deed was executed on 31/07/2014. If before the sale deed a promise was extended by Annexure P-2 on 23/05/2013 that the person who are displaced would be rehabilitated with some land, this can be raised as a defence in civil suit even by defendant and the petitioner thereby can also very well claim for injunction under Order 39 Rule 1 and 2 of CPC. If this court entertains the petition it would be a parallel proceeding along with the civil suit as the subject issue would be one and same, therefore the fact finding court would be the civil court which would be in the proper position to adjudicate the issue. The petitioner can avail the remedy available to him under the common law. Under the circumstances, I am not inclined to exercise the extra ordinary jurisdiction of this court.

4. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE