

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(C) No. 1001 of 2021

Gurunanak, S/o. Late Shri Bolaram Malakar, Aged About 68 Years, Caste Mali, R/o. Najul Seat No. 55, Plot No. 73, Madhuban Para (Modi Para), Raigarh, District And Tehsil Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Urban Administration And Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, Chhattisgarh
2. The Municipal Corporation Raigarh, Through Its Commissioner, Having Office At Nagar Nigam Building, Raigarh, District Raigarh, Chhattisgarh
3. The Collector, Raigarh, District Raigarh, Chhattisgarh
4. Nazul Officer, Raigarh, District And Tahsil Raigarh, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Rajat Agrawal, Advocate
For State/Respondent No.1, 3 & 4.	:	Mr. Gagan Tiwari, Dy. Govt. Advocate
For Respondent No.2	:	Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12.02.2021

Heard

1. Learned counsel for the petitioner would submit that the challenge is to the notification dated 22.10.2020 (Annexure P-1) wherein a part of plot bearing No.173, sheet No.55 admeasuring 4100 sq.ft. is sought to be auctioned by the Nazul Department Raigarh. It is stated that the petitioner was in occupation of the said plot since 40-45 years and were paying the rent and though Annexure P-1 purports that objections would be decided, the petitioner has made an application by Annexure P-2 on 31.10.2020 but the same has not been decided and all of a sudden, the Municipal Corporation has demolished the boundary wall and there are all likelihood that further ejectment will be carried out. Therefore, the

respondents may be restrained to do so without giving an opportunity of hearing to the petitioner.

2. Learned counsel appearing for the respondent No.2 / Municipal Corporation would submit that the petitioner has no title over the land and as per Annexure P-1 its auction notice has been published and the petitioner can participate in it and at present he does not have any right to claim the property.
3. State counsel also supports the argument advanced by the learned counsel for the respondent No.2.
4. Heard learned counsel appearing for the parties and perused the documents.
5. Perusal of the documents would show that an auction notice was published on 22.10.2020 by Nazul Officer Raigarh wherein property of the petitioner situated at Madhuban Para, Nazul Sheet No.55, Plot No.173 was subject of auction. Thereafter, the petitioner made an objection by Annexure P-2 wherein it is stated that earlier there were two Kachcha houses were constructed which were destroyed due to rain and now trees were planted in it and the petitioner is in possession. The Panchnama filed as Annexure P-6 also records the fact that the Kachcha houses were existing which were destroyed due to rain and presently was used to keep the cattle.
6. Prima facie it appears that no document of title is on record. It is only on the possession, the petitioner is claiming his right. The petitioner if at all is interested to get the ownership he can very well participate in the auction, which has been published by the Nazul Officer by Annexure P-1. Since Annexure P-1 records that if any person has an objection may file the objection which would be decided. Further, since the petitioner has made an objection Annexure P-2 the Nazul Officer may decide the same

within a period of three weeks. In the meanwhile, the petitioner may not be forcefully dispossessed from the property, till such objection is decided. It is further made clear that this Court has not made any observation on merits about entitlement of petitioner.

7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Aks