

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1444 of 2021

Loknath Meher, Aged About 45 Years, S/o Suknandan Meher R/o Village-
Bhikhampura, Tehsil- Baramkela, District- Raigarh, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, Chhattisgarh.
2. The Secretary, Department Of Revenue, Government Of Chhattisgarh, Mahanadi Bhawan, Atal Nagar, New Raipur, Chhattisgarh.
3. The Collector, District- Raigarh, Chhattisgarh.
4. The Commissioner, Bilaspur Division, Link Court- Raigarh, District- Raigarh, Chhattisgarh.
5. The Sub-Divisional Officer (R) Tehsil- Baramkela, District- Raigarh, Chhattisgarh.
6. The Tehsildar, Tehsil- Baramkela, District- Raigarh, Chhattisgarh.
7. Naib Tehsildar Tehsil- Baramkela, District- Raigarh, Chhattisgarh.
8. Chief Municipal Officer, Nagar Panchayat Sariya, Tehsil- Baramkela, District- Raigarh, Chhattisgarh.

---- Respondents

For petitioner – Shri S.S. Rajput, Advocate.

For State -Smt. Astha Shukla, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

10/03/2021

Heard.

1. Learned counsel for the petitioner would submit that on a proceeding under Section 248 of the Land Revenue Code initial order of ejectment was passed against the petitioner on 26/12/2017 by Annexure P-3 which was subject of challenge before the SDO, Raigarh and though interim protection was granted against ejectment, eventually on 13/09/2018 by Annexure P-4 has dismissed the

appeal. Against such order, the petitioner has preferred second appeal before the court of Commissioner, Bilaspur Link Court at Raigarh. It is submitted that alongwith the second appeal an interim application has already been filed to the stay the ejectment, however since the Link Court at Raigarh of Commissioner is not available as such the hearing on the stay application could not take place and in the meanwhile possession warrant Annexure P-6 was issued by Naib Tehsildar, Baremkela, District Raigarh by Annexure P-6 on 5/02/2021. Learned counsel submits that in any case whatever the fate may be of the appeal, the petitioner has a right to be heard including the main appeal as also on his application for stay. Therefore, till the appeal is decided on merits, the interim protection from ejectment may be granted and the appeal may be heard as early as possible.

2. Considering the prayer made, it appears that initial ejectment order was passed on 26/12/2017, still the same is to be executed. The document Annexure P-5 would show that the petitioner has filed second appeal which is pending adjudication before the Commissioner, Bilaspur who holds a link court at Raigarh wherein the appeal is to be heard. Documents shows alongwith the appeal interim application for stay has been filed. Since hearing of the appeal could not take place for want of availability of the court, then in such case the petitioner cannot be made to suffer. Under the circumstance, it appears that on earlier occasion the petitioner was protected by interim order against ejectment. Therefore considering the facts, it is directed that till the appeal is decided on merits by the Commissioner, Bilaspur holding a Link Court at Raigarh the ejectment part of the order shall remain stayed. The Commissioner shall hear the appeal as expeditiously as possible on it's own merit.

3. With such observation, the petition stands disposed of. Sd/-

(Goutam Bhaduri)

JUDGE

