

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 2001 of 2021

Gaind Lal Devangan, S/o. Late Jawahar Lal Devangan, Aged About 48 Years, Caste Kosta, R/o. Village Majarkatta, Tahsil And District Gariyaband Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Its Secretary, Department Of Revenue, Mantralaya, Mahanadi Bhawan, Police Station Rakhi, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh.
2. Secretary, Janpad Panchayat Majarkatta, Tahsil And District Gariyaband Chhattisgarh.
3. Sarpanch, Janpad Panchayat Majarkatta, Tahsil And District Gariyaband Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Rajeev Kumar Dubey, Advocate
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For State	:	Ms. Richa Shukla, Dy. Govt. Advocate
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Hon'ble Shri Justice Goutam Bhaduri

ORDER

08.06.2021

Heard.

1. The grievance of the petitioner is that the petitioner has given his part of land bearing Khasra No.1015/2 for construction of road for common thoroughfare in the year 2018 at the request of the Gram Panchayat Majarkatta in exchange of land to be given to him. The petitioner was given the part of land bearing Khasra No.1024 by the resolution of the Gram Panchayat and thereafter he has raised his superstructure over the said land. The petitioner was given the part of land admeasuring 168 sq.mt. out of Khasra No.1024. Subsequently, the proceeding was drawn on the ground that the said land belong to the State and as such the allotment cannot be made by the Gram Panchayat. Consequently, the impugned order dated 02.03.2020 (Annexure P-4) was passed wherein fine was imposed to the

extent of Rs.5000/-. The liberty was also given to raise the dispute before the Civil Court, if the petitioner is so advised.

2. Learned counsel for the petitioner would submit that the petitioner has not voluntarily encroached upon any Government land, however, the land was given to him on exchange and after the exchange, he raised a superstructure over the land. Therefore, he cannot be said to be encroacher and with the levy of fine and branding him as encroacher would jeopardize his interest as superstructure have been raised over the land after allotment. He would submit that the land of the petitioner was given to the Gram Panchayat for construction of the road and had it been known that he would loose his right, he would not have given such land of his ownership to Gram Panchayat.
3. Perusal of the documents would show it is not in dispute that the petitioner was given the land in lieu of the land given by him. It appears to be a case of promissory estoppel like nature. In the facts of this case, since the order of the Naib Tahsildar have been challenged before this Court, according to the Land Revenue Code, the petitioner has an alternative remedy to file an appeal against the order dated 02.03.2020 under Section 44 of the Land Revenue Code, 1959. In view of the statutory appellate remedy, it is ordered that the petitioner may avail the alternative remedy of filing the appeal before the S.D.O. within a period of 60 days. In the meanwhile, considering the facts involved in this case, no forceful dispossession or demolition shall be carried out. Further if the appeal is filed and till it is adjudicated on merits by the S.D.O., there shall be stay of the order of Naib Tahsildar dated 02.03.2020.
4. In view of the aforesaid direction and observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge