

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 2186 of 2021

1. Dhanaram Patel, S/o. Sohan Lal Patel, Aged About 40 Years.
2. Shatruhan Patel, S/o. Bajrang Patel, Aged About 45 Years.
3. Rahas Ram Kashyap, S/o. Jagnathiya Kashyap, Aged About 49 Years.

All are R/o. Ward No. 9, Rapta Ghat, Nadi Kinare, Bhoghapara, Nagar Panchayat Shivrinarayan, Tahsil Navagarh, District Janjgir-Champa, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Revenue, Mahanadi Bhawan, New Raipur, Raipur, Chhattisgarh.
2. Collector, Janjgir, District Janjgir-Champa, Chhattisgarh.
3. Sub Divisional Officer (Revenue) Janjgir, District Janjgir-Champa, Chhattisgarh.
4. The Naib Tahsildar, Sub Tahsil Shivrinarayan, Tahsil Navagarh, District Janjgir-Champa, Chhattisgarh.
5. The Revenue Inspector, Patwari Halka No. 23, Village Bhoghapara, Tahsil Navagarh, District Janjgir-Champa, Chhattisgarh.
6. The Patwari, Patwari Halka No. 23, Village Bhoghapara, Tahsil Navagarh, District Janjgir-Champa, Chhattisgarh.
7. The Chief Municipal Officer, Nagar Panchayat Shivrinarayan, District Janjgir-Champa, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Ravindra Sharma, Advocate
For Respondent/ State	:	Ms. Richa Shukla, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

ORDER

14.06.2021

Heard

1. The instant petition is filed against the order dated 09.04.2021 by three of the petitioners namely Dhanaram Patel, Shatruhan Patel and Rahas Ram Kashyap.

2. Learned counsel for the petitioners submits that this is the second round of litigation; earlier on 24.08.2020 when the writ petition was filed bearing WPC No.1699 of 2020, this Court directed the Chief Municipal Officer, Nagar Panchayat Shivrinarayan to take appropriate decision in accordance with law. He submits that in the order dated 09.04.2021, name of three petitioners appear at serial No.3, 4 & 5. Learned counsel further submits that in respect of Dhanaram though was granted a lease of 600 sq.ft. however his possession was only to the extent of 518 sq.ft., yet the notice have been served to vacate the land. He submits that the order and notice are one and same, which is filed as Annexure P-1. He therefore submits despite the fact that the petitioners are in possession of their land to which they were granted lease, yet they have been served with such notice which is illegal.

3. According to the order Annexuer P-1 dated 09.04.2021, it would show that in respect of petitioner No.1, Dhanaram Patel, whose name appears in the order at serial No.4, it is observed that he was granted a lease of 600 sq.ft., out of khasra No.720 and he is in possession of 518 sq.ft., out of that in 238 sq.ft., house is constructed and 280 sq.ft., is open area. In respect of Shatruhan Patel, petitioner No.2, whose name appears at serial No.5, he was granted a lease of 630 sq.ft., out of khasra No.723/1/Ka and he is in possession of 2323 sq.ft., which is beyond the lease hold area. In respect of Rahas Ram Kashyap, petitioner No.3, whose name appears at serial No.3 he was granted a lease of 924 sq.ft., out of khasra No.720 whereas he is in possession of 2448 sq.ft. and over 1331 sq.ft., house is constructed and 1117 sq.ft., of land is open area. The order purports that by deducting the area which has been granted to the petitioner by way of lease, rest of the area may be vacated. Therefore, in respect of two petitioners i.e. Shatruhan Patel & Rahas Ram Kashyap, petitioner No.2 & 3, the order reflects that though they were granted 630 sq.ft. & 924 sq.ft. respectively, Rahasram constructed a housed over 1331 and he has occupied 1117 sq.ft., and Shatruhan was granted a lease of 630 sq.ft., and he has constructed a house over 623 sq.ft. and has occupied

1700 sq.ft. In respect of Dhanaram, petitioner No.1, his occupation is appears to be less than the lease granted from 600 sq.ft. of land, as it reflects that he was granted a lease of 600 sq.ft, and out of that in 238 sq.ft. house is constructed and 280 sq.ft, is open area. Therefore the order where it is stated that barring the lease hold area, the petitioner cannot claim any right over the rest part of area, I do not find any infirmity in the order as the possession over and above the lease hold land would amount to that of an encroacher. Consequently, when the order dated 09.04.2021 already protects the petitioners to the extent of the area for which they were granted lease, no further adjudication is required. This Court will not protect the part of the area for which they have encroached upon. This writ petition is disposed of accordingly.

Sd/-
(Goutam Bhaduri)
Judge

Aks