

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPIL No. 74 of 2021**

1. Dakeshwar Soni S/o Bhushan Lal Soni Aged About 44 Years
R/o Shubhash Ward, Kanker, P.S. And Tehsil - Kanker, Distt,
Uttar Bastar-Kanker (Chhattisgarh)
2. Ashok Valecha S/o- Pratab Valecha Aged About 34 Years
R/o - H.No. 09, Shitla Mandir No. 02, Kanker, Uttar Bastar,
Kanker, Chhattisgarh- 494334.
3. Rameshwar Singh Kashyap S/o- Rashik Raj Aged About 57
Years R/o. Radha Krishna Mandir, Manjhapara, Kanker,
Uttar Bastar, Kanker, Chhattisgarh- 494334.
4. Geeta Sharma W/o Paras Lal Sharma Aged About 55 Years
R/o- 15/136, Rajapara Ward, Kanker, Uttar Bastar Kanker,
Chhattisgarh- 494334.
5. Deepak Panjwani S/o- Dayal Panjwani Aged About 23 Years
R/o House No. 36, Aamapara Ward Kanker, Uttar Bastar,
Kanker, Chhattisgarh- 494334.
6. Biplab Sarkar S/o Biresh Aged About 22 Years R/o 54- Ward
No. 12, P.V. 55, Pump No. 07, Pakhanjur, Kanker
Chhattisgarh- 494776.
7. Gurudas Biswas S/o Sanjay Biswas Aged About 31 Years
R/o- 07 Ward No. 13, Baikunthpur P.V. 125, Pakhanjur, Uttar
Bastar Kanker Chhattisgarh - 494776
8. Sagar Lakhwani S/o- Vijay Lakhwani Aged About 24 Years
R/o- H.No. 66, Amapara, Kanker, Uttar Bastar, Kanker,
Chhattisgarh- 494334.
9. Haresh Chakradhari S/o- Kanhaiya Ram Chakradhari Aged
About 34 Years R/o 12, Shitla Para Chichgaon Ward No. 01,
Gram Panchayat Chichgaon, Post- Kulhaadkatta, Kanker,
Chhattisgarh- 494669
10. Brojen S/o Gourang Aged About 26 Years L.L.B. Student

R/o- Radha Krishna Mandir, Manjhapara, Kanker, Uttar Bastar Kanker, Chhattisgarh - 494334

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, The Urban Administration And Development Department, 4th Floor, D-Block Indrawati Bhawan, Atal Nagar Raipur, Distt.- Raipur (Chhattisgarh)
2. The Commissioner Bastar Sambhag, Jagdalpur, Distt.- Bastar.
3. The Collector District - Uttar Bastar, Kanker (Chhattisgarh)
4. The Tahsildar Kanker District Uttar Bastar Kanker (Chhattisgarh)
5. The Naib Tahsildar (Nazool) Kanker, Tehsil Office, District- Uttar Bastar Kanker (Chhattisgarh)
6. The Nazul Officer, Kanker District- Uttar Bastar Kanker (Chhattisgarh)
7. The Municipal Council Through Chief Municipal Officer, District- Uttar Bastar Kanker (Chhattisgarh)
8. The Chief Municipal Officer The Municipal Council- Kanker, Tahsil - Kanker, District- Uttar Bastar Kanker (Chhattisgarh)

---- Respondents

For Petitioners	:-	Mr. Sachin Nidhi, Advocate
For Respondent-State	:-	Mr. Chandresh Shrivastava, Dy.AG

Hon'ble Shri Prashant Kumar Mishra, Ag. CJ
Hon'ble Shri Parth Prateem Sahu, J.
Order On Board

By

Prashant Kumar Mishra, Ag.CJ**01/07/2021**

1. Heard.

2. Petitioners have preferred this PIL seeking the following reliefs :-

“10.1 That, this Hon'ble Court may kindly be pleased to call for the relevant records from the respondents pertaining to the case of the petitioner for its kind perusal.

10.2 That, the Hon'ble Court be pleased to hold and declare that encroachment/illegal construction upon 3000 Square Meter government land from ad-measuring area 9642 square meter having sheet no.13 A, plot no.99/1, by the Municipal Council, Kanker in Government land as well as land reserved for the purposes of parking of public vehicle is illegal as per the directions issued by the Hon'ble Apex Court.

10.3 To issue an appropriate writ or orders or directions against the respondents authorities and to conduct strict enquiry for closing the revenue proceeding and also to conduct the strict actions against them for contemptuous act and for violating the strict directions issued by the Hon'ble Apex Court.

10.4 Any other relief deemed fit in the facts and circumstances of the case may also be granted.”

3. The area in question is within territorial limits of the Municipal Council, Kanker. The said local body has applied

for grant of Nazul land so that a shopping complex can be constructed over the area.

4. Learned counsel for the petitioners submits that public at large is using the subject space/area for parking and other facilities, therefore, if construction of shopping complex is made, the area would not be available for public use. It is further submitted that the State Government has fixed premium of ₹79,67,556/- which is to be paid by the Municipal Council as premium for obtaining lease of the subject area, however, the said amount has yet not been paid by the Municipal Council.
5. Having heard learned counsel for the petitioners for sometime, we are of the considered view that the writ petition does not involve any public interest. If some space is available within the territory of the Municipal Council and the same is found suitable for construction of shopping complex which would enhance the financial capacity of the Municipal Council as well as it will promote commercial activity in the area, the same cannot be stopped only for the reason that public is using the space for their own parking facilities. Similarly, the document available at page 23 of the petition wherein the premium amount has been calculated is not a demand raised against the Municipal Council. The said document is assessment / calculation of

the premium amount by the Nazul Inspector for fixation of premium at the time of grant of lease to the Municipal Council. The document itself is not a demand letter. In any case, there should not be any apprehension that the Municipal Council being a local body, under the department of Urban Administration and Development will violate the terms of lease by not depositing the premium amount. Even if that happens, for the sake of argument, it is for the concerned Government to recover the premium.

6. There is no substance in the present PIL, therefore, it deserves to be and is hereby dismissed.

SD/-

(Prashant Kumar Mishra)
Acting Chief Justice

SD/-

(Parth Prateem Sahu)
Judge

Ayushi