

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 2815 of 2021

1. Dashari Bai W/o Dukalu, Aged About 61 Years Caste Gond, R/o Dongrigaon, Maroda, Gariyaband, District Gariyaband Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Department of Revenue and Disaster Management, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Collector Gariyaband District Gariyaband Chhattisgarh
3. Tehsildar Gariyaband District Gariyaband Chhattisgarh
4. Chief Medical and Health Officer Gariyaband District Gariyaband Chhattisgarh

---Respondents

For Petitioner	:	Shri Shikhar Bhaktiyar, Advocate.
For Respondent/State	:	Ms. Samiksha Gupta, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13.12.2021

1. The petitioner seems to be aggrieved of the alleged action on the part of the respondents where they seem to have encroached and entered into the private property exclusively owned and possessed by the petitioner.
2. It appears that the respondents have allegedly entered into the private property for the purpose of construction of Bungalows for District Collector and District Superintendent of Police. It is the allegation of the petitioner that the entire act of encroachment has been made without following any due process of law and which would be in total contravention to Article 300A of the Constitution of India.
3. Considering the submissions made by the counsel for the petitioner, this court is of the opinion that since it is an issue of alleged illegal encroachment and illegal acquisition of the private owned property belonging to the petitioner, the proper course of action for the petitioner would be to approach the Civil Court seeking for an appropriate suit for

declaration, title and possession over the said land. The petitioner can move an application for injunction also in the said suit whereby he would be able to produce suitable evidence to establish his title and right over the said property. At the same time, it would also be available for the respondents to establish before the court that there is no alleged illegal encroachment or illegal acquisition and whatever has been done is purely in accordance with law. All these facts would require evidence to be adduced by either parties in respect of their respective claims.

4. Reserving the right of the petitioner in this regard for approaching the concerned Civil Court, the writ petition at this juncture stands disposed of. Needless to mention that it is always expected that the State authorities, if at all, if they intend to acquire any private property, the same has to be done strictly in accordance with the law governing the field of acquisition and the said also has to be done after taking into confidence the persons whose property is intended to be acquired and after paying him suitable compensation in accordance with the laws framed by the State Govt. as also by the Central Govt. in this regard. Needless to mention that the petitioner would also be entitled for consideration of his claim for rehabilitation and resettlement benefits governing the field.
5. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge