

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 343 of 2020**

1. Basant Gupta, S/o Late Badri Prasad, Aged About 61 Years R/o Ward No. 7, Gupta Mohalla, Takhatpur, Tahsil Takhatpur, District - Bilaspur Chhattisgarh.
2. Rajendra Gupta, S/o Late Badri Prasad, Aged About 55 Years R/o Ward No. 7, Gupta Mohalla, Takhatpur, Tahsil Takhatpur, District - Bilaspur Chhattisgarh.

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Versus

1. Sarpanch Gram Panchayat Barela, Janpad Panchayat, Mungeli, District - Mungeli Chhattisgarh.
2. State of Chhattisgarh, Through The Secretary Of Revenue Department, Mantralaya, Atal Nagar, New Raipur, District - Raipur Chhattisgarh.
3. Collector, Mungeli, District - Mungeli Chhattisgarh.
4. Tahsildar, Tahsil Mungeli, District - Mungeli Chhattisgarh.
5. Nayab Tahsildar, Jarhagaon, Tahsil Mungeli, District - Mungeli Chhattisgarh.

---- Respondents

For Appellants	: Mr. Ravindra Sharma, Adv.
For Respondent No. 1	: Mr. Vaibhav A. Goverdhan, Adv.
For State/Respondents No. 2-5	: Mr. Vivek Ranjan Tiwari, Addl. A.G. with Mr. Sameer Sharma, Dy. G.A.

DB : Hon'ble Shri Prashant Kumar Mishra, Acting C.J.**Hon'ble Smt. Justice Rajani Dubey**Per: Hon'ble Shri Prashant Kumar Mishra, Acting C.J.**13.08.2021****Proceedings through video conferencing.**

1. I.A. No. 01/2020, for condonation of delay in filing the appeal is allowed and delay condoned.
2. Heard on Admission.
3. This Writ Appeal would call in question the order passed by

the learned Single Judge directing the present respondents No. 2 to 5 to make strict compliance of order dated 03.07.2017 passed by the Division Bench in WPPIL No. 20/2017 and also to ensure that the order dated 16.08.2013 passed by Respondent No.4, Nayab Tahsildar, Jarhagaon, Tahsil Mungeli, District Mungeli, is acted upon at the earliest.

4. Shri Ravindra Sharma learned counsel for the appellants submits that the petitioner is not an encroacher. The land in his possession is part of Abadi Land which the petitioners are occupying in a lawful manner. He would submit that in any case, if the respondents No. 2 to 5 proceed to remove the alleged encroachment, the petitioners may be heard before removal of encroachment.
5. In WPPIL No. 20/2017, the writ petitioner sought direction against the official respondents for removal of encroachment on Government land in Mungeli District. After hearing the parties, Division Bench of this Court passed the following order in Para 4 and 5.

“4. We do not think that it is appropriate for us to now delineate the various findings or criticism levied in that affidavit against the occupants because what is required is that the jurisdictional authorities have to initiate appropriate action in accordance with applicable laws to prevent further encroachment and also to recover lands which are in the occupation of trespass. Such procedure could be carried forward only in accordance with law and with notice to the parties meaning thereby that such proceedings could be had only with due hearing of the occupants. Therefore, it would not be appropriate for us to make any observation on the merits or de-merits of the alleged trespass.

5. For the aforesaid reasons, this writ petition is ordered directing that in the wake of affidavit filed by the Collector, Mungeli District the said officer will ensure that due action follows in accordance

with the applicable laws. As regards, all illegal and unauthorized occupations of government land in Mungeli District, by whomsoever it may be, official respondents-2 to 4 will do the needful to ensure that such action follows at the earliest and concludes in accordance with law within an outer limits of 8 weeks from the receipt of copy of this order. We clarify that the direction contained herein is without prejudice to any appellate or revisional remedy that maybe available to any party in relation to any such proceedings.”

6. In the above order, in para 4, it is clearly observed that the procedure for removal of encroachment could be carried forward only in accordance with law and with notice to the parties meaning thereby that such proceedings could be held only with due hearing to the occupants. Thus, petitioners' concern that they may be evicted without affording opportunity of hearing has already been taken care of by the Division Bench.
7. In view of the above, we do not find any substance in this writ appeal, which fails and is hereby dismissed with direction that whenever the respondents No. 2 to 5 proceed to remove encroachment, in terms of direction issued by this Court in WPPIL No. 20/2017, the concern respondents shall put the petitioners on notice at least of 15 days and, thereafter, the encroachment can be removed, in accordance with law.

Sd/-
(Prashant Kumar Mishra)
 Acting Chief Justice

Sd/-
(Rajani Dubey)
 Judge