

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3717 of 2021**

1. Manharan Lal Kaiwart, S/o Late Shri Badku Ram Kaiwart, Aged About 59 Years R/o Nagar Panchayat Baloda, Ward No. 15, Thsil - Baloda, Dostroct - Janjgir - Champa, Chhattisgarh.
2. Dilharan Kaiwart, S/o Late Shri Badku Ram Kaiwart, Aged About 51 Years R/o Nagar Panchayat Baloda, Ward No. 15, Thsil - Baloda, Dostroct - Janjgir - Champa, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Urban Administration And Development, Mahanadi Bhavan, Atal Nagar, Raipur, Chhattisgarh,
2. Collector, District Janjgir - Champa, Chhattisgarh,
3. Chief Municipal Officer, Nagar Panchayat Baloda, District Janjgir - Champa, Chhattisgarh,

---- Respondents

For Petitioners	:	Mr. Vivek Kumar Agrawal, Advocate
For State	:	Mr. Ashish Tiwari, G.A.
For Respondent No. 3	:	Mr. Sudeep Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****13.09.2021**

Heard.

1. The challenge in this writ petition is to the order dated 24.08.2021(Annexure P/1) wherein the petitioner No. 2 has been served with a notice stating that he has encroached upon certain land at Ward No. 15 at Nagar Panchayat Baloda and has constructed a house without obtaining the permission, therefore, it is against the statute of Nagar Palika Adhiniyam 1961.
2. Learned counsel for the petitioners submits that the petitioners are residing in the said area for more than 40 years and have raised the superstructure and are paying the electricity charges and the taxes. He submits that if all of

a sudden, if the petitioners are forcefully removed, then they would lose their shelter. It is stated that therefore, the petitioners may be rehabilitated on the same place and the forceful eviction or demolition by the respondent authority may be stayed.

3. Learned counsel for the respondent No. 3 submits that the petitioners are the rank trespassers and if they have constructed their house, they cannot claim that they are to be rehabilitated on the same place, therefore the petition would be dismissed.
4. *Prima facie* the documents attached along with this petition do not show any document of ownership of the petitioners and under what authority the petitioners are in occupation of said land for which over the superstructure of it the electricity charges are paid. However, taking into the fact that an application has been filed to the CEO Baloda Distt. Janjgir Champa claiming rehabilitation, the same may be considered by the respondent authority. It is made clear that this Court has not made any observation to rehabilitate the petitioners over the same part of land inasmuch as it would fall within the policy decision of the State and the Municipality. Since the petitioners are in occupation of the house and the rainy season is running, taking into such humanitarian aspect, the petitioner is given liberty to file a fresh application for rehabilitation within a period of 15 days and if any such policy of rehabilitation exists, that may be considered. The application of the petitioners shall be decided within an outer limit of 60 days and considering the facts, it is directed that till the application of the petitioners is decided, the petitioners shall not be forcefully evicted from the said land or no demolition would be carried out.
5. With the above observation/ direction, this petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge