

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 468 of 2020**

(Arising out of order dated 9.11.2020 passed by learned Single Judge in WPC No.2745/2020)

- Smt. Shail Jaiswal W/o Shri Virendra Jaiswal, aged 60 Years
R/o In Front of Sharad Gas Service, Old High Court Road,
Bilaspur , Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Appellant/Res. No.6**Versus**

1. Dr. Badri Jaiswal S/o Late Ganesh Prasad Jaiswal, aged about 69 years, R/o In front of Bihari Talkies, Old High Court Road, Bilaspur Chhattisgarh.
2. State of Chhattisgarh, Through Collector Bilaspur (CG).
3. Zone Commissioner, Municipal Corporation Bilaspur (CG)
4. Bhavan Adhikari, Municipal Corporation Bilaspur (CG)
5. Municipal Corporation, Bilaspur Through Commissioner, Office of Municipal Corporation Bilaspur (CG)
6. Tahsildar, Tahsil Bilaspur (CG)
7. The Sub Division Officer Bilaspur (CG)

---- Respondents

For Appellant	: Mr. Malay Bhaduri, Advocate
For Respondent No.1	: Mr. Neeraj Choubey, Advocate
For Respondent No.2, 6 & 7	: Mr. Ashish Tiwari, Govt. Advocate
For Respondent No.3,4 & 5	: Mr. Anumeh Shrivastava, Advocate

Hon'ble Shri PR Ramachandra Menon, CJ**Hon'ble Shri Parth Prateem Sahu, J****Order On Board****Per Parth Prateem Sahu, J****05/3/2021**

1. Respondent No.6/appellant has preferred this writ appeal against the order dated 9.11.2020 passed by the learned

Single Judge in WPC 2745/2020 disposing of writ petition preferred by petitioner/respondent No.1 with a direction to respondent Municipal Corporation to first get the property owned by petitioner/respondent No.1 herein measured & demarcated and thereafter to take further steps on Notice dated 3.11.2020 (Annexure P-1 to writ petition).

2. Mr. Malay Shrivastava, learned counsel representing appellant submits that appellant has been arrayed as respondent No.6 in writ petition filed by petitioner/respondent No.1, but without issuing notice of writ petition and without giving opportunity of hearing to appellant, the impugned order has been passed affecting her interest. It is further contended that on an application being filed by appellant, demarcation proceedings on khasra number involved in instant case have already been carried out. Petitioner/respondent No.1 herein has not approached the Court with clean hands, hence the impugned order passed by the learned Single Judge is liable to be interdicted.

3. Mr. Neeraj Choubey, learned counsel appearing for petitioner / respondent No.1 submits that petitioner in his writ petition has challenged the Notice dated 3.11.2020 issued by respondent Municipal Corporation, on the complaint of appellant herein, for removal of alleged illegal construction raised by petitioner/respondent No.1 i.e. opening of shutter of shops on the land of complainant/appellant herein. Taking

into consideration the nature of grievance projected by petitioner/respondent No.1 in writ petition, the learned Single Judge disposed of writ petition with a direction to the respondent Municipal Corporation to take further steps on Notice dated 3.11.2020 only after getting the disputed land measured & demarcated. No order affecting the interest of appellant has been passed, hence the grievance projected by appellant in this appeal that she has not been given opportunity of hearing is not sustainable.

4. Mr. Anumeh Shrivastava, learned counsel for respondent Municipal Corporation submits that as per his information, respondent Corporation has already issued memo to the Competent Authority for conducting demarcation proceedings in respect of the disputed property, as directed by the writ Court. The order passed by the learned Single Judge will be complied with at the earliest.
5. At this stage, Mr. Malay Shrivastava, learned counsel for the appellant submits that in the garb of order passed by the learned Single Judge, petitioner/respondent No.1 may adopt dilatory tactics delaying the demarcation proceedings, therefore, a direction may be issued to the respondent authorities to conclude demarcation proceedings within the time frame, as may be fixed, and thereafter to take appropriate steps on Notice dated 3.11.2020.
6. Learned counsel for respective respondents have not

opposed the above proposition made by learned counsel for appellant.

7. We have heard learned counsel for the parties.
8. Taking into consideration the nature of grievance projected and the fact that learned Single Judge has not passed any order adverse to the interest of appellant herein and only issued a direction to proceed further with Notice dated 3.11.2020 only after getting the disputed land measured & demarcated, however, no time frame has been fixed for conclusion of demarcation proceedings. Therefore, we find it appropriate to dispose of this writ appeal fixing time period for conclusion of demarcation proceedings.
9. Accordingly, we direct the respondent Municipal Corporation to get the disputed land measured and demarcated from the Competent Revenue Authority concerned i.e. respondent No.6 & 7 or any such other competent revenue officer, within a period of two months from today. Respondent No.5 will thereafter proceed to take action on Notice dated 3.11.2020 in accordance with law.
10. With the above direction, the writ appeal stands disposed of.

Sd/-
(P.R. Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge