

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3390 of 2020

Gyanesh Chandra Sharma S/o Shri Ramkumar Sharma, Aged About 61 Years R/o 193 Metro Greens Saddu, Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh --- **Petitioner**

Versus

1. State of Chhattisgarh through the Secretary, Department of Housing And Environment, Mahanadi Bhawan, New Mantralaya, Naya Raipur , District : Raipur, Chhattisgarh
2. Raipur Development Authority through Chief Executive Officer, Bhakt Mata Karma Commercial Complex, 2nd Floor, New Rajendra Nagar, Raipur , District : Raipur, Chhattisgarh --- **Respondents**

For the Petitioner : Mr. Varun Sharma, Advocate

For the State : Mrs. Richa Shukla, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23.02.2021

1. Despite service of notice to respondent no.2, Raipur Development Authority, no representation is made to answer the query on its behalf. Learned counsel for the petitioner submits that the petitioner is owner of the plot comprised in Khasra No.572/2 admeasuring 7000 sqft., (0.065 hectare) situated at village Lalpur (Tikrapara) alias Gabhra Para P.H.No. 114 R.I. Circle 1, Raipur. It is stated that the land was purchased by the petitioner from Chinmay Builders Private Limited by a sale deed dated 09.10.2000. Respondent no.2, Raipur Development Authority had launched a scheme namely Kamal Vihar Town Development Scheme No.04 wherein the said land was also included and was subject of acquisition. It is submitted that the Supreme Court in *Rajendra Shankar Shukla v. State of Chhattisgarh* (2015) 10 SCC 400 and connected cases wherein the scheme part of acquisition was challenged by few of aggrieved persons, quashed

such acquisition. It is submitted that the vendor from whom the petitioner purchased the land was also party before the Supreme Court so as to get the benefit of the order. Thereafter the State Government on 25th November, 2016 pursuant to the order passed by the Supreme Court excluded the land of the petitioner which is comprised in Kh.No.572/2 from the acquisition under the Town Development Scheme No.4. It is submitted that even thereafter respondent no.2, RDA, is not allowing the petitioner to get back his land. He would further submit subsequent to the decision of the Supreme Court in *Rajendra Shukla Versus State of Chhattisgarh (Supra)*, the Govt. of Chhattisgarh further brought the amendment in *C.G. Nagar Tatha Gram Nivesh (Amendment and Validation) Act, 2017* vide notification 14.06.2018 wherein the acquisition of the land of some of persons (except the persons whose acquisition of land quashed by Supreme Court) was excluded and the acquisition of rest of land was validated. Learned counsel submits that though the land which comprised in Kh.No. 572/2 is excluded pursuant to notification dated 25th November, 2016, yet the land is not being released to the petitioner, therefore, respondent no.2 may be directed to release the land of the petitioner forthwith without any impediment.

2. Learned State Counsel appearing for the State/respondent no.1 would submit that the issue pertains to Raipur Development Authority respondent no.2 herein.
3. Despite notice to respondent no.2, no representation is made. Since the sale deed would show that part and parcel of the land comprised in Kh.No.572/2 admeasuring 7000 square feet was purchased by the petitioner from Chinmay Builders Private Limited, who was also stated to be appellant before the Supreme Court, as such, it appears that the land bearing Kh.No.572/2 was excluded by Notification dated 25th

November, 2016 vide Annexure P-1 from the acquisition of Town Development Scheme No.4. If the land of the petitioner was excluded by notification of 25th November, 2016 pursuant to the order of the Supreme Court dated 29.07.2015, no impediment should have been caused to the petitioner to get back the possession and enjoyment of the said land. It appears that by notification, the land bearing Kh.No.572/2 has already been excluded from the acquisition, therefore, no further restriction can be placed for free enjoyment of such right to the property by the respondent. It is contended that after the said land was released from the Town Development scheme No.4, the petitioner applied for demarcation and the said demarcation was not allowed by respondent no.2. Under the circumstances, it is directed that the petitioner shall be at liberty to make a fresh application for demarcation of his land by impleadment of necessary parties before the Tahsildar within a period of 30 days and the Tahsildar, on such application for demarcation of particular land, shall demarcate the land of the petitioner wherein respondent no.2 shall extend cooperation instead of placing any barriers. The Tahsildar thereafter shall complete the demarcation within a period of 4 months from the date of such application.

4. With such observation, this writ petitions stands disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**