

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3386 of 2020

Uttam Kashyap S/o Gopal Kashyap, Aged About 44 Years, Owner Of Part Of Land Bearing Khasra Number 713 / 1 R/o Bajrangpara Jarhagaon Police Station Jarhagaon District Mungeli Chhattisgarh. **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary Public Works Department Mahanadi Bhavan, Mantralaya New Raipur, District Raipur Chhattisgarh.
2. Engineer In Chief, P.W.D / National Highway, Sirpur Bhawan, Near Kali Mandir, Via Governor House Road, Raipur Chhattisgarh Pin Code 492002
3. Collector, Mungeli Chhattisgarh.
4. Sub - Divisional Officer (Revenue) Mungeli District Mungeli Chhattisgarh.
5. Executive Engineer, National Highway Division, Bilaspur, District Bilaspur Chhattisgarh.
6. Union Of India Through Secretary Ministry Of Road Transport And Highways New Delhi

---- Respondents

For Petitioner	:	Mr. Sushobhit Singh, Advocate.
For State	:	Smt. Astha Shukla, PL.
For Union of India	:	Mr. Tushar Dhar Diwan, Advocate appears on behalf of Mr. Ramakant Mishra, ASG.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

12/01/2021

1. Heard.
2. Learned counsel for the petitioner submits that the petitioner is the owner of the land bearing Khasra No. 713/1 at Jarhagaon Mungeli wherein his house is constructed. He refers to Annexure P/2 which is a document to show that the ownership of the land vests with the petitioner. He also refers to the revenue map wherein the Khasra No. 713/1 is demarcated. It is further contended that without appreciating this fact, the petitioner has been branded as a encroacher of a Government land whereas it is factually incorrect. It is further contended that the petitioner has been enlisted in the name of the encroacher as per list of Annexure P-

4 and the respondents are going to take over the property over the khasra No.713/1 without it being legally acquired.

3. Perused the documents. Perusal of the document the prima facie map Annexure P-2 would show that it records the name of the petitioner wherein khasra No.713/1 has been recorded in the name of the petitioner, the field map purports so. Apart from the fact the revenue record also records the name of the petitioner. Therefore if the petitioner is the owner of a particular land bearing Khasra No. 713/1, then the said holding cannot be generalised that he has encroached upon the government land as his name appears in the revenue record and the revenue map which is filed as Annexure P-2, it cannot be branded as a encroacher and the same cannot be generalised unless this fact is factually established.
4. Under these circumstances, I do not find any reason to keep this petition pending, therefore it is directed that before the widening of the National Highway, the respondent authorities shall demarcate the ownership of land of the petitioner and if the Highway passes through the land of the petitioner, then in such case the appropriate proceeding for land acquisition shall be initiated and completed within a reasonable time. If the petitioner's land is sought to be acquired, then the adequate compensation should also be paid to the petitioner as per the existing law. The petitioner shall not be forcefully dispossessed without ascertaining the aforesaid facts.
5. With the aforesaid direction/ observation, the writ petition stands disposed off.

Sd/-

(Goutam Bhaduri)

JUDGE