

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 5051 of 2021

1. Rohit Patel S/o Bodeshwar Patel Aged About 38 Years Caste Marar, R/o Antagarh, Ward No. 10, Tahsil Antagarh, District North Bastar Kanker Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Revenue And Disaster Management Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh
2. Collector / District Magistrate Kanker District Kanker, Chhattisgarh
3. Sub Divisional Officer Revenue Kanker, District Kanker, Chhattisgarh
4. Tahsildar, Antagarh District Kanker, Chhattisgarh
5. Divisional Forest Officer Forest Division, East Bhanupratappur, District Kanker, Chhattisgarh.
6. Assistant Commissioner (Tribal Department) District Kanker, Chhattisgarh

---Respondents

For Petitioner	:	Shri Sumit Singh, Advocate.
For State	:	Ms. Shriya Mishra, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09.12.2021

1. Aggrieved by the Annexure P-1 dated 09.11.2021, the present writ petition has been filed.
2. Vide the said impugned notice the petitioner has been called upon to give explanation as to why the illegal construction being carried out in the property over which the forest rights has been given to the petitioner on the property situating in Khasra No.428 Village Antagarh measuring 0.70 Hectares be not demolished.
3. Contention of the petitioner is that he has a valid forest right being conferred upon the said piece of land vide order dated 16.01.2009 and since then the petitioner is in peaceful possession of the said property. However, now the dispute is that the possession is being disturbed by the respondent authorities particularly by respondent no.4-Tehsildar, Antagarh.

4. State counsel on the other hand opposing the petition submits that it is only a notice which has been issued as of now, the petitioner would be free to submit a detailed reply supported with all relevant documents in support of his right over the said property and respondent no.4 shall take appropriate decision in accordance with law thereafter. The writ petition as of now accordingly is premature.
5. Learned counsel for the petitioner submits that it is the fear of the demolition which has made him to rush to the Court and prays for an appropriate interim protection from the respondents ensuring that no demolition work is carried out during the proceedings are finalized by the respondent no.4 on the Annexure P-1 notice.
6. Given the said facts and circumstances of the case and also taking note of the submission put forth by the counsel for the parties, this Court is of the opinion that since Annexure P-1 is only a notice dated 09.11.2021 calling upon the petitioner to submit his explanation ends of justice would meet if the writ petition at this juncture is disposed of directing the petitioner to approach respondent no.4 and to submit his reply, if he has not filed it till now within a further period of 15 days from the date of receipt of copy of this order and respondent no.4 in turn shall take appropriate decision thereafter.
7. It is further ordered that till the respondent no.4 takes an appropriate decision on Annexure P-1 subject to the reply of the petitioner being submitted within 15 days, there shall be no coercive steps initiated by the respondent no.4 on the property over which the petitioner in 2009 was granted forest rights.

8. It is made clear that this Court has not expressed any opinion on the merits of the case, respondent no.4 shall be passing an order purely on its own merits after due verification of facts.
9. With the aforesaid liberty, the present writ petition in its present form stands disposed off.
10. Certified copy today.

Sd/-
(P. Sam Koshy)
Judge

inder