

**IN THE HONOURABLE CHHATTISGARH HIGH COURT  
OF JUDICATURE AT BILASPUR**

**WRIT PETITION No. 315 / 2002.**

**PETITIONER:**

- ✓ 01. Rajendra Sonakar S/o Shri Soni Lal, aged about 40 years,
- ✓ 02. Kunj Bihari @ Kunjilal S/o Manchali, aged about 35 years,
- ✓ 03. Santosh Kumar S/o Ramadhar, aged about 35 years,
- ✓ 04. Ishwardeen S/o Rampratap, aged about 48 years.

[All R/o Ward No.5 of Municipal Council:  
Manendragar, Dist: Korla, Chhattisgarh].

**Versus**

**RESPONDENTS:**

- 01. State of Chhattisgarh through: it's Principal Secretary, Dept. of Revenue, State Secretariat, D.K.S. Bhawan, Raipur, Chhattisgarh.
- 02. Union of India, Through it's Secretary, Dept. of Railways, Central Secretariat, New Delhi.
- 03. South Eastern Railway, Zone- Bilaspur, Through it's Officer-in-charge, Bilaspur, C.G.
- 04. Section Engineer (Works), South Eastern Railways, Manendragarh, Dist: Korla, C.G.

No. 315/02  
Filed by Shri. M. K. B. S. S.  
02/02/02

**Writ Petition under article 226 of the constitution of India.**

## आदेश पत्रक

मामला क्रमांक W.P.No. 315 / सन् 2002

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><b><u>29/03/2003</u></b></p> <p>Shri Rajkamal Singh, counsel for the petitioner.</p> <p>Shri Ranbir Singh, GA for the respondent no.1/ State.</p> <p>Shri Abhishek Sinha, counsel for the respondents 2 to 4.</p> <p>In view of the limited nature of the controversy involved in this writ petition, the Court feels that no useful purpose would be served in keeping the writ petition pending as it can be disposed of at the admission stage with appropriate directions in the light of order passed in Writ Petition No. 16 of 2002 ( Rukmani and others Vs. State of Chhattisgarh and others ) decided on 02/09/2002.</p> <p>Prayer in this writ petition is for a direction to the respondents no.2, 3 and 4 not to demolish their houses/buildings in Ward No.5, Municipal Council, Manindragarh, Dist. Korea, C.G. The further prayer that the allotment of land to the Railways over which the petitioners and others have put up dwelling units be cancelled.</p> <p>It is the case of the petitioners that they are in occupation of different parcels of land over which they have</p>	

[पीछे देखिये]

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## आदेश पत्रक

मामला क्रमांक

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सन् 2002

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p style="text-align: center;">- 2 -</p> <p>built dwelling units. Their family has been in occupation, according to the petitioners, since the last three to four decades and as such they have perfected their title over the land in question by adverse possession. It is averred by the petitioners that the Railway Administration without any rhyme or reason is trying to dispossess them on the basis of a notice, copy whereof is Annexure P/1. It is the further case of the petitioners that since they have been in occupation for the said land for the last many many years, the Authorities have no right to evict them and that at any rate they cannot be evicted forcibly without following and in breach of the procedure established by law.</p> <p>According to the Railway Administration the petitioners have encroached upon the land belonging to the Railway Administration and have put up temporary dwelling units/structures which being near the railway track is causing obstruction/nuisance. It is further averred that the land being parallel to the railway track has to be kept vacant for the purpose of expansion and laying down additional track and</p>	

[पीछे देखिये]

## आदेश पत्रक

मामला क्रमांक

915

सन् 2002

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p style="text-align: center;">- 3 -</p> <p>that apart, safe distance has to be maintained on either side of the track to avoid any mishap. It is further averred that the Authorities have time and again requested the petitioners and other illegal encroachers to vacate the area in question, but due to political interference of local persons, difficulty is being faced in getting the area vacated. In the process, an Assistant Divisional Engineer was manhandled by the encroachers and one Ramanuj Agarwal for which FIR No.42/2002 dated 04/02/2002 was lodged at Police Station. That apart, ( it is averred) the District administration instead of assisting the Railway Administration has, on the contrary, initiated proceedings under Section 145 Cr.P.C., and under Section 250 of M.P. L.R. Code against the Railway Officials at the instance of the encroachers. It was accordingly submitted by the learned counsel for the Railway Administration that it has become necessary to evict the encroachers for which a notice was issued to the petitioners requiring them and others to remove the encroachment, failing which they would be evicted.</p>	

[पीठे देखिये]

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## आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p style="text-align: center;">-4-</p> <p>Having heard learned counsel and in the facts and circumstances of the case, the Court is of the opinion that the contentions raised, in particular the one whether the petitioners have perfected their title over the suit land in question by adverse possession are the matters which cannot be adjudicated upon in these proceedings. Be that as it may, the grievance of the writ petitioners that they cannot be forcibly evicted without taking recourse to the procedure established by law has force. However, as regards their claim for ownership/title of the land, they are free to approach the common law forum.</p> <p>Learned counsel for the Railway Administration also submitted that action will be taken only in accordance with law and that the petitioners should have no apprehension that they will be forcibly evicted.</p> <p>In the above view of the matter, the Court is of the opinion that in the facts and circumstances of the case, the petitioners should file a reply to the notice served on them for which the petitioners shall appear before the appropriate</p>	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
<p>2004</p>	<p>-5-</p> <p>authority on 19/04/2003 and thereafter the authorities shall proceed to dispose of the matter in accordance with law and per the after hearing the petitioners. As/undertaking, the petitioners will not be evicted otherwise than in course of law.</p> <p>With the aforesaid observations and directions, this writ petition stands disposed of. Consequently, M.W.P.No.677/2002 for vacating the interim order and I.A.No.2166/2003 for urgent hearing also stand disposed of.</p>	<p>Sd/- P. C. Naik Judge</p>