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HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO. 1483 OF 2006

PETITIONER

Ashok Kumar Sharma aged about 52 years, S/o late Mahadeo Prasad Sharma, R/o Nail, District Janjgir-Champa, Deputation- Ashok Medical Store and Manoj Provision store in front of District hospital Janjgir.

Vs.

RESPONDENTS

1. State of Chhattisgarh, through Secretary Revenue Department D.K.S. Bhawan Raipur (C.G.)
2. Collector, Janjgir-Champa (C.G.)
3. Sub Divisional Officer (Rev.) Janjgir, District Janjgir – Champa
4. Tahsildar, Janjgir, District Janjgir-Champa.
5. Chief Municipal Officer, Janjgir-Naila, District Janjgir-Champa.

Present: Mr. H.B. Agrawal, learned counsel for the petitioner.
Mr. Yashwant Singh, learned G.A. for the State.

ORAL ORDER

(Passed on 31st March, 2006)

The petitioner without any semblance of legal right, and if I may say so most cantankerously, has filed this writ petition seeking intervention of the Court. The facts are simple and straightforward. The petitioner having encroached the Government land has set up a medical shop, according to the petitioner, in the year 1980. Thereafterwards, the petitioner claims, he made an application for grant of lease of the encroached land in the year 1982-1983 to the Additional Collector, Korba District and the lease sought by the petitioner is not yet granted. When the matter stood thus,

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as per Annexure -P/1 dated 09.03.2006, issued by the Chief Municipal Officer, Janjgir-Naila, the 5th respondent herein, called upon the petitioner to produce documents of title with regard to the subject property. In the course of submission, learned counsel for the petitioner would further reveal that after filing the writ petition, the 5th respondent issued an order dated 29.03.2006 calling upon the petitioner to vacate the subject property within 48 hours. In the circumstance, the writ petition is filed for a direction to respondents 1 to 4 to decide the application made by the petitioner for grant of lease and a further direction to the Municipal Committee not to take any action on the basis of letter, Annexure-P/1. I have perused the petition averments. What is sought by the petitioner in this writ petition is that the respondents authorities shall not meddle with the petitioner's possession of the encroached land unless and until his application for grant of lease is decided. Alas! quite strange relief indeed. The petitioner has apparently committed an illegal act in encroaching the Government land. Notwithstanding that, the petitioner wants to squat on the Government property without any semblance of legal right and that too, taking exception to the lawful order issued by the Municipal Committee to vacate the encroached land. Issuing of *mandamus* to any of the respondents authorities in the way it is sought would not arise at all. *Mandamus* could be issued to an authority only to enforce an established legal right of the writ applicant not otherwise. It is needless to state that the petitioner does not have even a right to be considered in pursuance of the application made by him for grant of lease. The application made by the petitioner is in the nature of an extra-legal correspondence/extra-statutory application, and the respondents authorities are under no legal obligation to consider such application. Whether his application should be

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considered or ignored is very much within the domain of discretion vested in the respondents authorities. No statute is brought to my notice which obliges the respondents authorities to consider the so-called application of the petitioner for grant of lease made after encroaching upon the Government land.

(2) In the result, the writ petition is dismissed with exemplary cost quantified at Rs.5,000/- payable to the Chhattisgarh High Court Legal Services Committee within two weeks. The Registry shall inform the Court whether the direction has been complied with or not, after expiry of two weeks.

Sd/-
Chief Justice

Bojesh