

G.A. R 100/-

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IN THE HON'BLE HIGH COURT OF CHHATTISGARH ATBILASPUR (C.G.)Writ Petition (C) No. 1696 of 2012PETITIONER

: Samaru S/o Sarkar Singh, aged about 68 years, R/o Village-Karichhapar, Tahsil-Masturi, District-Bilaspur (C.G.)

VERSUSRESPONDENTS

- :1. Municipal Corporation, Bilaspur, through the Commissioner, Municipal Corporation Bilaspur (C.G.)
2. Estate Officer, Municipal Corporation, Bilaspur, Tahsil & District-Bilaspur (C.G.)
3. The Additional Collector, Bilaspur, District-Bilaspur (C.G.)
4. The Additional Tahsildar, Sub-Tahsil-Seepat, District-Bilaspur (C.G.)

J.R.No. ... 1696/12
Presented by Shri B. R. ...
dated 21.12.12

WRIT PETITION UNDER ARTICLE 226/227 OF THECONSTITUTION OF INDIA

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

SB: HON'BLE MR. ABHAY MANOHAR SAPRE J.

Writ Petition (C) No. 1696 OF 2012**PETITIONER**

Samaru

VERSUS**RESPONDENTS**Municipal Corporation,
Bilaspur and others**WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA.**

Present:- Mr. Bharat Rajput, Advocate for the petitioner.
Mr. G.D. Vaswani, G.A. With Mr. Sanjeev Kumar
Agrawal, P.L for the State/respondents No. 3 & 4.

ORDER (oral)
(Passed on 30/11/2012)

(1) This is a petition under Article 226/227 of the Constitution of India filed by the revisioner petitioner of revenue case No. 16/B-121/2011-12 seeking to challenge the order dated 9/7/2012 passed by the Additional Collector, Bilaspur, C.G in revenue case No. 16/B-121/2011-12.

(2) By impugned order, the Additional Collector upheld the registration of the case by the Tahsildar at the instance of respondent- Nagar Palika Nigam, Bilaspur against the petitioner for his eviction as a tress-passer on the land in question by taking recourse to the provision of C.G. Land Revenue Code.

(3) So the question is whether impugned order of Additional Collector is sustainable in law or not.

(4) Having heard the learned counsels for the petitioner and State/respondents No. 3 & 4 and on perusal of the record of the case, I am constrained to dismiss this petition in limine for more than one reason as indicated infra.



(5) Admittedly and even according to the petitioner, he filed a civil suit No. 42A/2010 in respect of the land in question against the respondents before 4th Civil Judge Class-1, Bilaspur (Annexure P-3) and the same is pending. It is further not in dispute that the petitioner had filed injunction application in the said suit under Order 39 Rule 1 & 2 of the C.P. Code and the said application was dismissed by learned trial Judge holding there in that the plaintiff could not make out any prima facie case, balance of convenience and injunction in his favour in relation to land in question against the defendants. It is further not in dispute that the petitioner had filed an appeal before the Additional District Judge against the said rejection and even the appeal was dismissed resulting in upholding of the order refusing to grant injunction to him. These facts were suppressed by the petitioner in this petition and were disclosed on an inquiry being made by this Court in the argument by the learned counsel.

(6) Be that as it may, since the trial Court declined to grant injunction and appellate Court affirmed the rejection, the finding recorded by the Civil Court would bind on the Revenue Court so far as this issue is concerned.

(7) Accordingly and in the light of forgoing discussion this petition is found to be devoid of any merit because if a case is registered against the petitioner treating him to be encroacher on the land in question in the light of finding recorded by Civil Court, even though while rejecting the temporary injunction application, then there lies sufficient grounds for initiating proceeding against the petitioner for his eviction under the Land Revenue Code. In case if the petitioner is ousted from the land during the pendency of the suit on the basis of some order passed by the Revenue Authorities and if suit is finally decided in petitioner's favour, appropriate direction for restoration of the possession of the suit land can always be passed by Civil Court despite petitioner's eviction by the Revenue Court.

(8) In view of the above observations, the petition fails and is hereby dismissed in limine.

(9) No cost(s)

Sd/-
Abhay Manohar Sapre
Judge