

Single Bench

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**IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT
BILASPUR**

W. P. (C) NO. 2262 OF 2012

PETITIONER

:-

Vishnu Dayal Agrawal S/o Late
Shri Roopchand Agrawal, Aged
about 62 years, R/o Sakti, Ward
No. 13, Police Station Sakti,
District Janjgir-Champa (C.G.).

R. No.

Presented by Shri.

dated.

VERSUS

RESPONDENTS

:-

1. The State of Chhattisgarh,
Through Secretary, Department of
Revenue, Mahanadi Bhavan, Naya
Raipur, District Raipur (C.G.).
2. The Sub Divisional Officer
(Revenue), District Janjgir-Champa
(C.G.).
3. The Municipal Council, Sakti,
Through its Chief Municipal
Officer, Municipal Council, Sakti,
District Janjgir-Champa (C.G.).



**WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA**

**HIGH COURT OF CHHATTISGARH AT BILASPUR****W.P.(C) No.2260 of 2012****Petitioner** : Vishnu Dayal Agrawal**Versus****Respondents** : The State of Chhattisgarh and others.**W.P.(C) No.2261 of 2012****Petitioner** : Vishnu Dayal Agrawal**Versus****Respondents** : The State of Chhattisgarh and others.**W.P.(C) No.2262 of 2012****Petitioner** : Vishnu Dayal Agrawal**Versus****Respondents** : The State of Chhattisgarh and others.**W.P.(C) No.2263 of 2012****Petitioner** : Laxmi Narayan Khetan**Versus****Respondents** : The State of Chhattisgarh and two others.**WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA****SB:- HON. SHRI PRASHANT KUMAR MISHRA, J.****PRESENT :-**

Shri Ankit Singhal, counsel for the petitioners.

Shri Satish Gupta, Government Advocate for the State.

ORAL ORDER**(27.12.2012)**

1. The present batch of writ petitions are disposed of by this common order as common questions of facts and law are involved in these writ petitions.



2. By way of instant petitions, petitioners seek to challenge notice dated 07.12.2012 directing each of the petitioner to remove encroachment, failing which, the authorities of the Municipal Council, Sakti shall proceed to remove the encroachment.

3. Learned counsel for the petitioners would submit that none of the petitioners has encroached any part of Government land or land in control of Municipal Council and that concerned Municipal Council is most likely to remove them from possession of their own land/building.

4. The question as to whether the land occupied by the petitioners belongs to them or is a part of Government land is a disputed question of fact, which cannot be gone into in this batch of writ petitions. However, at the same time, it is also to be seen that if the petitioners are in possession of the land/building, which belongs to them, they are entitled to be protected in law. Therefore, the present batch of writ petitions are disposed of in following manner:

i. The respondents, more particularly, respondents No.2 & 3 shall demarcate the land in possession of the petitioners in their presence and shall thereafter decide the exact area of land encroached by the petitioners within a period of 15 days from the date of receipt of a copy of this order.

ii. If the petitioners are found to be in possession of any part of Government land/Municipal land, the respondents shall be entitled to remove the encroachment. However, if the



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petitioners have not encroached any part of Government land/Municipal land but the said Municipal Council still needs the area of land for construction of a road/drain or for any lawful object, as contemplated under the Chhattisgarh Municipalities Act, 1961 (for short 'the Act of 1961'), they will be entitled to regulate line of building, in terms of Section 184 of the Act of 1961.

iii. Till the demarcation is made and the petitioners are made aware of the area of land encroached by them, the petitioners shall not be dispossessed from the land in their occupation. The entire exercise shall be completed by the concerned respondents within a period of 6 weeks from today.

iv. Similar view has been taken by this Court in its order dated 11.06.2012 in W.P.(C) No.937 of 2012 (**Devendra Kumar Tiwari v.State of Chhattisgarh and others**).

5. With the above direction, the writ petition stand disposed of.

6. Consequently, applications for urgent hearing and for hearing the case during winter holidays all stand disposed of.

Sd/-
Prashant Kumar Mishra
Judge

Ajay