

(2022) 02 CHH CK 0020
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 744 Of 2022

Sudhir Sharma

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 10-02-2022

Acts Referred:

Chhattisgarh Land Revenue Code, 1959 — Section 52

Citation : (2022) 02 CHH CK 0020

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Ratnesh Agrawal, Ashish Tiwari

Final Decision : Disposed Of

Judgement

1. The petitioner is aggrieved of a notice issued by the respondent No.4 on 02.02.2022 asking the petitioner to remove certain construction which the petitioner has made.

2. According to the petitioner, he is in possession of the land bearing Khasra No.33/1 admeasuring 0.60 Hect. at village Gunjera, PH No.34 Tehsil

Nawagarh, District Bemetara. According to the petitioner the said property is a privately owned property belonging to the petitioner and he has the

necessary title documents in respect of the same. However, inspite of this, the respondents have treated the petitioner to have encroached upon the

government land stating that the property is one that situates in Khasra No.478 admeasuring 0.04 Hect. and thus the construction made by the

petitioner is on an encroached land.

3. The petitioner had questioned the notice before the SDO where the matter has been heard on admission as also on the question of grant of interim

relief on an application under Section 52 of Land Revenue Code filed by the petitioner. However, the SDO has posted the matter to 18.02.2022 and

meanwhile the respondent No.4 has now passed a fresh order seeking removal of the encroachment from the said land.

4. There seems to be some dispute in respect of whether the construction made by the petitioner is one which is Khasra No.33/1 or Khasra No.478 as has been claimed by the State authorities.

5. Considering the fact that the matter relates to the title of the property and where the petitioner claims it to be a private property having documents

to show the title over the said land, this court is of the opinion that the proper recourse available to the petitioner is first to apprise the SDO in respect

of the subsequent notice issued by the Tehsildar and get an order from the SDO at the earliest and secondly the right of the petitioner stands reserved

to avail other appropriate remedies from the competent Civil Court so far as injunction is concerned.

6. Subject to petitioner's making a request to the SDO in the changed circumstances, the SDO is expected to consider and decide his application

particularly the application for interim relief at the earliest, if not the appeal itself on merits, so as to avoid unnecessary further complications.

7. The writ petition accordingly stands disposed of with the aforesaid observations.