



2024:CGHC:44474

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5650 of 2024

Ajay Banjare S/o Bed Ram Banjare Aged About 30 Years Director Pragati Computer Education Center, Having Its Office At Village Adbhar, District Sakti, Chhattisgarh. Permanent R/o Ward No. 12, Village- Bade Padarmuda, Tehsil Malkharoda, District : Janjgir-Champa, Chhattisgarh

... Petitioner

versus

- 1 State Of Chhattisgarh Through The Secretary, Government Of Chhattisgarh, Urban Administration And Development Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, Chhattisgarh.
- 2 Collector Sakti, District Sakti, Chhattisgarh
- 3 -Tehsildar Village- Adbhar, District Sakti, Chhattisgarh
- 4 - Nayab Tehsildar Village- Adbhar, District Sakti, Chhattisgarh
- 5 - Nagar Panchayat Adbhar Through Its Chief Municipal Officer, Village- Adbhar, District Sakti, Chhattisgarh

... Respondents

Order Sheet

14/11/2024	Mr. Anmol Sharma, counsel for the petitioner. Mr. Soumitra Kesharwani, Panel Lawyer for the State/ respondents 1 to 4. Heard on IA No.01/2024, application for grant of interim relief. Learned counsel for the petitioner submits that he has filed this petition challenging eviction notice dated 14.10.2024 issued by respondent No.3/Tahsildar Adbhar, Distt. Sakti (CG) directing the petitioner to evict the encroachment made by him. He would submit that in Revenue Case No.202409311000084/B-121/2023-24, eviction order has been passed by Tahsildar, Sakti on 04.10.2024, but within ten days, i.e. on 14.10.2024, eviction notice (Annexure-P/1) has been issued by the Tahsildar, whereas, period of appeal against order passed by the Tahsildar is 45 days under Section 47 of the Chhattisgarh Land Revenue Code, 1959. He would next submit that vide order dated 10.3.2024 passed by this Court in WPC No.1469/2024, Coordinate Bench of this Court has held that

prior to lapse of period of appeal, i.e. 45 days, order of dispossession ought not have been acted upon. He would further submitted that the petitioner wants to file appeal against order dated 04.10.2024 and the period of appeal is not lapsed yet, which is till 19.11.2024. Therefore, he prayed that effect and operation of eviction notice dated 14.10.2024 passed by Tahsildar, Adbhar (Annexure-P/1) be stayed till the period of filing of the appeal by the petitioner.

Learned counsel for the State submits that due opportunity of hearing to the petitioner was provided by the Tahsildar while passing the impugned order, however, he conceded that appeal period has not been lapsed yet.

Having considered the contention put forth by learned counsel for both parties and further considering the fact that if there is provision for appeal prescribed by the law, then order of eviction ought not have been acted upon as right to file appeal exists till appeal period. Hence, I feel inclined to allow the prayer made by learned counsel for the petitioner, as such, effect and operation of impugned notice dated 14.10.2024 (Annexure-P/1) passed by Tahsildar, Adbhar, Distt. Sakti shall remain stayed till 19.11.2024.

In the meantime, the petitioner may file appeal against

Bini	the order of eviction to take appropriate remedy from the appellate authority. List this case in the week commencing 25.11.2024. Sd/- (Naresh Kumar Chandravanshi) Judge
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