



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3215 of 2023**

Suresh Warlyani S/o Shri Hariram Warlyani Aged About 58 Years R/o
Sihawa Chowk, Dhamtari, District : Dhamtari, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary Ministry Of Revenue
And / Or Ministry Town And Country Planing, Directorate, Nagar
Tatha Gram Nivesh, Nava Raipur Atal Nagar Raipur (C.G.)
2. Collector Dhamtari (C.G.)
3. Commissioner Municipal Corporation, Dhamtari (C.G.)
4. Bhawan Adhikari Municipal Corporation, Dhamtari (C.G.)
5. District Niyamitikan Pradhikari Through Member Secretary,
Dhamtari (C.G.)
6. Tehsildar (Revenue) Tehsildar Office Dhamtari, District :
Dhamtari, Chhattisgarh

---- Respondents

For Petitioner : Mr. B.P. Sharma, Advocate with
Mr. Manay Nath Thakur, Advocate

For Respondents/State : Mr. Raghavendra Pradhan, Addl.A.G.
No.1, 2, 5 & 6

For Respondents No. 3 & 4 : Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order On Board****17/07/2023**

1. The limited relief sought for by petitioner in this petition is of
interim protection to be granted from demolishing his super



structure standing over the land owned by him.

2. Learned counsel for petitioner submits that pursuant to the permission granted by respondent No.3 and 4, petitioner has started construction of the building. He however, submits that as per the objection raised by respondent No.3 and 4 that construction of petitioner is not in accordance with the permission granted by Competent Authority and therefore, they have issued show cause notice and thereafter have issued notice for demolishing extended portion of super structure. It is further contention of learned counsel for petitioner that considering the site plan and construction, petitioner has already submitted an application for regularization of the unauthorized construction made by him under Chhattisgarh Anadhikrit Vikas Ka Niyamitikan Adhiniyam, 2002 (In short 'the Act of 2002'). The application submitted by petitioner before the authorities was not considered in accordance with law and it came to be dismissed and therefore, petitioner has preferred an appeal under Section 9 (1) of the Act of 2002, which is pending consideration. He submits that after registration of the case, before the Appellate Authority, case was fixed after almost one month and in the meanwhile, respondents No.3 and 4 are intended to demolish the structure of petitioner. He contended that till the decision of appeal before Appellate Authority, interim protection may be granted.
3. Learned counsel for respondent No.3 and 4 submits that from the

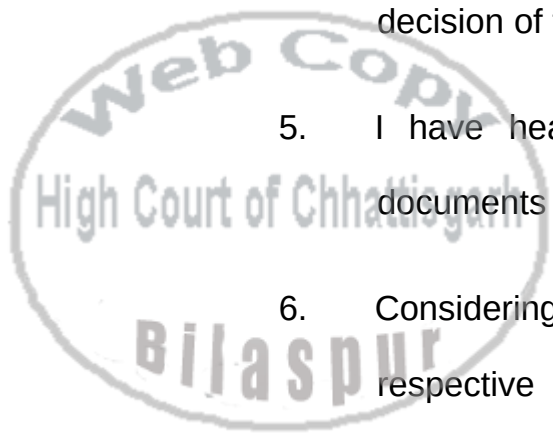


documents placed on record it appears that petitioner has not filed any application for stay of the proceedings initiated by the respondents No.3 and 4 and also there is delay in filing the appeal. He also submits that part of demolition has also been taken place as per his instructions.

4. At this stage, learned counsel for petitioner submits that as on the date of filing of appeal, petitioner was not aware of any action to be taken for demolition of his super structure, therefore, the application may not have been filed but in the present he will file application for stay before the Appellate Authority and till the decision of the of the application, protection may be granted.

5. I have heard learned counsel for parties and perused the documents placed on record.

6. Considering the rival submission of learned counsel for respective parties and further considering that building has already been constructed, application for regularization of the unauthorized construction though dismissed but the appeal is pending consideration before the Appellate Authority under the Act of 2002 and if the interim protection is not granted to petitioner, it will cause irreparable injury to him, therefore, in the facts and circumstances of the case, this petition is disposed off at this stage permitting petitioner to submit application for grant of interim relief before the Appellate Authority within a period of 10 days from today and in the event of filing of such application, Appellate Authority is directed to to consider and pass





appropriate orders on the application and to make an effort to finalize the appeal at the earliest.

7. For a period of two months parties are directed to maintain status-quo with respect to the property in question.
8. Accordingly, this petition is disposed off with the aforesaid observations and directions.

C.C. today.

Sd/-
(Parth Prateem Sahu)
Judge

Balram

