

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 5110 of 2010

- Nishith Patel S/O Shri Shrawan Bhai Patel, aged about 37 years, Plot No. B-07 Shriram Nagar Phase-1 Netaji Subhash Chandra Bose Ward Raipur (CG)

Through Power of Attorney Holder, Fizi Gwalre S/o Shri RK Gwalre, Aged about 33 years, R/o TV Tower Road, Shanker Nagar, Raipur (CG)

---- Petitioner

Versus

- State Of Chhattisgarh, Through the Secretary, Urban Administration Department, Mantralaya, Raipur (CG)
- Municipal Corporation Raipur, Through Commissioner, Municipal Corporation Raipur (CG)
- The Zone Commissioner, Zone No.3, Municipal Corporation Raipur (CG)

---- Respondent

For Petitioners. Mr. Keshav Dewangan, Advocate.
For Respondent No.1/State Mr. Adhiraj Surana, Dy.GA.
For Respondent Nos. 2 & 3 Mr. H.B. Agrawal, Sr. Advocate with Mrs. Meera Jaiswal, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

02/07/2015

Challenge in the present writ petition is to the notice dated 11.2.2010 issued by respondent No.3 asking the petitioner to submit his reply of the alleged illegal construction being made by him. The petitioner has also challenged the memo dated 31.8.2010 (Annexure P/2) issued by respondent No.2 by which his application for compounding has been rejected.

02. Counsel for the petitioner submits that in the year 2008-09 the petitioner has already completed the construction of commercial and residential

complex and if the same is considered in the light of Master Plan, 2021 issued in respect of Raipur city, no illegality can be found in the construction. He submits that no useful purpose would be served in demolishing the property of the petitioner after seven years of the construction especially when the same is being used by various persons for their livelihood and for their living. He submits that the petitioner has already filed an application before the Commissioner, Municipal Corporation for compounding of the offences of construction of building and let the Corporation authority consider the application of the petitioner afresh and pass a speaking order. He further submits that stay is operating in favour of the petitioner since 7.9.2010 and the same may be directed to be continued till the petitioner's case is decided afresh by the Corporation authorities.

03. Counsel appearing for the Corporation submits that the petitioner's case has already been considered by the Corporation and it has been found that he has raised construction *dehorse* the rules. The petitioner has changed the land use which is not permissible unless the same is approved by the Town & Country Planning. He submits that in case any order has been passed by the Town & Country Planning for change of land use, the petitioner may submit the said document before the Corporation and in turn the Corporation will consider the same. He further submits that let the petitioner submit the entire map of the construction which he has raised and the relevant documents regarding change of land use along with complete photographs of the building from all angles and in turn, a speaking order would be passed by the Corporation.

04. Considering the fair submissions made by the parties, the petitioner is directed to submit a fresh map of the construction already raised by him along with photographs of the same from all angles as well as the document, if any, regarding change of land use, before the Corporation within four

weeks from today. In the eventuality of doing so by the petitioner, it is expected from the Corporation authorities to pass a speaking order considering all the aspects of the case including the present applicable Master Plan.

05. Till the Corporation authority passes a fresh speaking order, no step shall be taken by the Corporation for demolishing the property of the petitioner. In case the petitioner does not complete the formalities as directed, the Corporation authorities would be at liberty to take action against the petitioner.

06. It is made clear that this Court has observed nothing on merits of the case and the competent authority to act strictly in accordance with law.

07. With the aforesaid observations, the petition stands disposed of.

Sd/-

(Pritinker Diwaker)

JUDGE