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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1098 of 2014**

- M/s Chopra Auto Centre A Proprietorship Firm Representated By Proprietor Vinod Kumar Chopra S/o Late Shri Desrajji Chopra, 62 Years, Forest Avenue, Behind Bhilai Niwas, Civic Centre, Bhilai, Post & P.S. Bhilai, Civil & Revenue Distt Durg, (C.G.)

---- Petitioner**Versus**

1. Steel Authority Of India Ltd. Bhilai Steel Plant, Through Asst. General Manager (Land & Lease) Bhilai Steel Plant, Bhilai, Post & Ps Bhilai, Civil & Revenue Distt Durg, (C.G.)
2. The Executive Director (P & A) Bhilai Steel Plant, Bhilai, Post & Ps Bhilai, Civil & Revenue Distt Durg, (C.G.)
3. M/s Indian Oil Corporation Ltd Indian Oil Bhawan, G-9, Ali Yawar Jang Marg, Bandra (East), Mumbai 400051
4. M/s Indian Oil Corporation Ltd. Raipur Divisional Office, Indian Oil Bhawan, Rajiv Gandhi Marg, Vip Road, Post Ravigram, Ps Telibandha, Raipur, Civil & Revenue Distt Raipur, Cg

---- Respondents**And****WPC No. 2382 Of 2014**

- Indian Oil Corporation Limited Through Chief Divisional Retail Sales Manager, Raipur Division Office, Indian Oil Bhawan, Rajiv Gandhi Marg, Vip Road, Post Ravigram, Ps Telibandha, Raipur, Civil & Revenue Distt Raipur, (C.G.)

---- Petitioner**Vs**

1. Steel Authority Of India Limited Bhilai Steel Plant, Through Assistant General Manager (Land And Lease) Bhilai Steel Plant, Bhilai, Post & Police Station Bhilai, Civil & Revenue Distt Durg, (C.G.)
2. The Executive Director (P&a) Bhilai Steel Plant, Bhilai, Post And Police Station Bhilai, Civil & Revenue Distt Durg, (C.G.)

---- Respondents

For Petitioner (in WPC No.1098/2014)	:	Shri Akash Pandey, Advocate
For Respondent-SAIL	:	Dr. Saurabh Kumar Pandey, Advocate
For Petitioner (in WPC 2382/2014)	:	Shri Anand Shukla, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

18/11/2015

1. Petitioners have called in question the order passed by the respondents cancelling the allotment of plot/shops, which was leased out to Indian Oil Corporation more than 30 years back.
2. It is common ground that a similar order was assailed before the Coordinate Bench of this Court in WP.(C) No.1089 of 2015, wherein, this Court refused to entertain the dispute leaving the parties to work out their remedy before the Civil Court seeking appropriate relief, as may be available to them in law. The petitioners were also protected from dispossession for a period of 60 days and thereafter, it was left open for the respondents to seek eviction in accordance with law. This Court also observed and clarified that the order passed in the writ petition shall not come in the way of the parties to resolve the dispute amicably.
3. Assailing the order passed by the Single Bench, the lessee preferred Writ Appeal No.438 of 2015. While the writ petition was heard and closed for orders, the respondent- lessor filed a caveat before the Civil Court *inter alia* submitting that the Civil Court has no jurisdiction to entertain the Civil Suit. When this was brought to the notice of the Division Bench at the time of hearing of the writ appeal, it was observed thus in para 7, 9 & 10 :

“7. The Respondents cannot be permitted to approbate and reprobate, seeking to blow hot and cold at their convenience. If the Act was to apply, it remains

a question if the jurisdiction under Article 226 would apply or not though we do not express any final opinion on the aspect at this stage.

9. There is yet another aspect of the matter which we are constrained to take note of. The respondents are a "State" within the meaning of Article 12 of the Constitution. It has a duty, even in contractual matters to act fairly, reasonably and responsibly. It cannot behave like a private litigant by playing a game of chess on a chess board of litigation. The Writ Petition was heard and orders reserved on 1.7.2015 in the backdrop of the submission made on behalf of the Respondents that the Writ Petition was not maintainable and the remedy lay in a suit evident from the consideration of their objections in paragraph-5 of the order under appeal. While the Writ Petition was pending for pronouncement of order on the premise of the arguments made by the parties, the Respondents changed the very substratum of the platform on which the case was decided by filing proceedings before the Estate Officer under the Act. This was an act of the Respondents virtually confronting the Writ court with their conclusions, pre-empting the orders of the Court on basis of materials never urged before the Learned Single Judge. We deliberately refrain from saying anything more on this aspect except to express our deep anguish in the matter.

10. The Writ Petition is therefore disposed of with the observation that objection with regard to the maintainability of the suit, if any, shall be decided in light of the discussions contained in the present order."

The writ appeal was thus disposed of in the above stated terms.

4. Since the dispute raised in both the writ petitions is similar, they are disposed of in terms of the order passed by this Court in W.A. No.438/2015, with further clarification that the petitioners are protected from dispossession for a period of sixty days, as was allowed in favour of the petitioners of WPC No.1089/2015.

Sd/-

Judge
Prashant Kumar Mishra

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