

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 240 of 2015**

Rajesh Kumar Agrawal s/o late Mamanchand aged about 47 years, R/o Itwari Bazar, Raigarh, district Raigarh (C.G.)

---- Appellant

Versus

Municipal Corporation, Raigarh, through Commissioner, Municipal Corporation, Raigarh, district Raigarh (C.G.)

---- Respondent

For Appellant	:	Shri Uttam Pandey and Shri Vipin Punjabi, Advocates.
For Respondent	:	Shri R.R. Sinha, Advocate.

HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE & HON'BLE SHRI P. SAM KOSHY, J.

Judgment On Board**Per NAVIN SINHA, C.J.****29/4/2015**

1. The present appeal arises from the order dated 23.2.2015 in Writ Petition (C) No. 2497 of 2014 and analogous cases.

2. The Learned Single Judge opined that the Appellant may prefer a representation if he is aggrieved by the amount of premium and rent as well as number of the shops being allotted and the Commissioner, Municipal Corporation, Raigarh was required to consider and decide the same on its own merits. It was also noticed that the construction was at the finishing stage.

3. Learned Counsel for the Appellant submits that the new constructions are still not ready and they are being forced to shift. There is a discrimination in the rates fixed for the new shops between similarly situated persons. Persons who earlier had two shops were being offered only one shop in the new construction.

4. Learned Counsel for the Municipal Corporation has taken a preliminary objection that pursuant to the observation of the Learned Single Judge, the Appellant has filed a representation before the Commissioner, who has passed a fresh reasoned and speaking order. The Appellant is well aware of it and has not brought those materials on record in the appeal. The appeal has therefore become infructuous. If the Appellant is aggrieved by the fresh order passed by the Commissioner the remedy lies separately.

5. Learned Counsel for the Appellant submits that the representation was filed after institution of the writ appeal. It is fairly acknowledged that fresh orders have been passed by the Commissioner on the representation also.

6. In the peculiar facts and circumstances of the case, where the Appellant appears to have accepted the order under appeal and simultaneously challenged it, we are of the considered opinion that the appeal has become infructuous because of the fresh order passed by the Commissioner, Municipal Corporation, Raigarh pursuant to the direction of the Learned Single Judge.

7. If the Appellant is aggrieved by the fresh order passed by the Commissioner, his remedy lies in challenging the same appropriately in a duly constituted fresh proceedings. Our reluctance to entertain the present appeal on the technical ground has no relevance to the fresh order of the Commissioner, if it is challenged by the Appellant.

8. The writ appeal is dismissed with the aforesaid observation.

(Navin Sinha)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE