

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 849 of 2015**

1. Gurubaksh Singh @ Bakshi S/o Late Prem Singh Saluja Aged About 57 Years Resident Of Purana Bus Stand Bemetara, District Bemetara (Chhattisgarh)
2. Nimorlak Singh S/o Late Sujit Singh Aged About 45 Years Resident Of Panjabi Para, Bemetara, District Bemetara (Chhattisgarh)

---- **Petitioner****Versus**

1. Benlal Tamrakar S/o Sukhru Prasad Resident Of Shiva Traders Bemetara, Tehsil And District Bemetara (Chhattisgarh)
2. Sub Divisional Officer (Revenue) Bemetara District Bemetara (Chhattisgarh)
3. District Municipal Council, Bemetara, Through Its Chief Municipal Officer, Bemetara, District Bemetara (Chhattisgarh)

---- **Respondent**

For Petitioners : Shri Sunil Otwani, Advocate.
 For Respondent No.1 : Shri Vinay Pandey, Advocate.
 For Respondent No.2 : Shri S. Majid Ali, Panel Lawyer.
 For Respondent No.3 : Shri Santosh Bharat, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****26/10/2015**

1. The petitioners are aggrieved by the order passed by the Sub Divisional Officer (Revenue) Bemetara, District Bemetara on 28.4.2015 whereby the said authority has concluded that the subject non-residential

accommodation is dilapidated, therefore, proceeding be undertaken by the Municipal Council, Bemetara under Section 221 of the Municipalities Act, 1961 (for short 'the Act, 1961').

2. After hearing learned counsel for the parties, it would appear that the powers and duties of the Municipality with regard to ruinous or dangerous building and the precautionary measures to be taken therefor is provided under Section 221 of the Act, 1961. A reading of the provisions would indicate that whether or not a particular building is ruinous or dangerous is to be determined by the Council and not by any other authority. Similarly whether structure is to be brought down or secured or repaired is also to be decided by the Council after hearing the persons who are likely to be affected by the decision.
3. In view of the provisions contained under the Act, 1961 and without commenting on the jurisdiction of the Sub Divisional Officer (Revenue), it would be appropriate to dispose of the writ petition giving liberty to respondent No.1 to move appropriate application before the concerned Municipality and on such application being made, the Municipality shall decide the matter in accordance with the provisions contained under Section 221 of the Act, 1961 after giving opportunity of hearing to the petitioners. Ordered accordingly.
4. It is made clear that while deciding the issue, the concerned Municipality shall not be influenced by the order passed by the Sub Divisional Officer (Revenue), Bemetara.

Sd/-
Judge
(Prashant Kumar Mishra)