

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 632 OF 2015

Smt. Kishori Sharma W/o. Padmanabh Sharma, Aged About 40 Years,
Occupation Teacher, R/o. Darripara, Ambikapur, P S. and Post Ambikapur,
Civil & Revenue District Surguja (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, Through : The Secretary, Urban Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (C.G.)
2. The Commissioner, Urban Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (C.G.)
3. The Joint Director, Town and Country Planning, Ambikapur, District Surguja (C.G.)
4. The Collector, Ambikapur, District Surguja (C.G.)
5. The Commissioner, Municipal Corporation, Ambikapur, District Surguja (C.G.)
6. Alok Dubey, S/o. Late Shri T. N. Dubey, Aged About 50 Years, Councilor Nagar Palik Nigam, Ambikapur, R/o. Shivayan Villa, Pratappur Naka, P.S. Gandhinagar, Ambikapur, Revenue and Civil District Surguja (C.G.)
7. Krishna Nand Singh, S/o. Rajendra Bahadur Singh, Aged About 44 Years, Occupation Colonizer, R/o. Kedarpur, Ambikapur, P.S. and Post Ambikapur, Civil & Revenue District Surguja (C.G.)

... Respondents

WRIT APPEAL NO. 633 OF 2015

Amit Kumar Agrawal S/o Shri Nanhuram Agrawal, Aged About 37 Years, R/o Kundla Vasundara City, Ambikapur, District Surguja (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, Through : The Secretary, Urban Development Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Dist. Raipur (C.G.)
2. The Commissioner, Urban Development Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (C.G.)
3. The Joint Director, Town and Country Planning, Ambikapur, District Surguja (C.G.)
4. The Collector, Ambikapur, District Surguja (C.G.)
5. The Commissioner, Municipal Corporation, Ambikapur, District Surguja (C.G.)
6. Alok Dubey, S/o. Late Shri T. N. Dubey, Aged About 50 Years, Councilor Nagar Palik Nigam, Ambikapur, R/o. Shivayan Villa, Pratappur Naka, P.S. Gandhinagar, Ambikapur, District Surguja (C.G.)
7. Krishna Nand Singh, S/o. Rajendra Bahadur Singh, Aged About 44 Years, Occupation Colonizer, R/o. Kedarpur, Ambikapur, P.S. Ambikapur, District Surguja (C.G.)

... Respondents

WRIT APPEAL NO. 634 OF 2015

Satish Kumar Agrawal (Bansal) S/o Shri Rishiram Bansal, Aged About 33 Years, R/o Kundla Vasundara City, Ambikapur, District Surguja (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, Through : The Secretary, Urban Development Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Dist. Raipur (C.G.)
2. The Commissioner, Urban Development Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (C.G.)
3. The Joint Director, Town and Country Planning, Ambikapur, District Surguja (C.G.)
4. The Collector, Ambikapur, District Surguja (C.G.)
5. The Commissioner, Municipal Corporation, Ambikapur, District Surguja (C.G.)
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7. Krishna Nand Singh, S/o. Rajendra Bahadur Singh, Aged About 44 Years, Occupation Colonizer, R/o. Kedarpur, Ambikapur, P.S. Ambikapur, District Surguja (C.G.)

... Respondents

WRIT APPEAL NO. 635 OF 2015

Manoj Agrawal S/o Gyaniram Agrawal, Aged About 44 Years, Caste Agrawal, R/o. Godhanpur, Ambikapur, P.S. and Post Ambikapur, Civil & Revenue District Surguja (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, Through : The Secretary, Urban Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (C.G.)
2. The Commissioner, Urban Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (C.G.)
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6. Alok Dubey, S/o. Late Shri T. N. Dubey, Aged About 50 Years, Councilor Nagar Palik Nigam, Ambikapur, R/o. Shivayan Villa, Pratappur Naka, P.S. Gandhinagar, Ambikapur, Revenue and Civil District Surguja (C.G.)
7. Krishna Nand Singh, S/o. Rajendra Bahadur Singh, Aged About 44 Years, Occupation Colonizer, R/o. Kedarpur, Ambikapur, P.S. and Post Ambikapur, Civil & Revenue District Surguja (C.G.)

... Respondents

WRIT APPEAL NO. 636 OF 2015

Ashok Kumar Goyal S/o Shri Rajaram Agarwal, Aged About 40 Years, R/o Ram Mandir Road, Ambikapur, District Surguja (Chhattisgarh), P.S. and Post Ambikapur, Civil & Revenue District Surguja (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, Through : The Secretary, Urban Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (C.G.)
2. The Commissioner, Urban Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (C.G.)
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7. Krishna Nand Singh, S/o. Rajendra Bahadur Singh, Aged About 44 Years, Occupation Colonizer, R/o. Kedarpur, Ambikapur, P.S. and Post Ambikapur, Civil & Revenue District Surguja (C.G.)

... Respondents

WRIT APPEAL NO. 637 OF 2015

Krishna Nand Singh S/o Rajendra Bahadur Singh, Aged About 44 Years, Occupation Colonizer, R/o Kedarpur, Ambikapur, P.S. and Post Ambikapur, Civil & Revenue District Surguja (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, Through : The Secretary, Urban Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (C.G.)
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6. Alok Dubey, S/o. Late Shri T. N. Dubey, Aged About 50 Years, Councilor Nagar Palik Nigam, Ambikapur, R/o. Shivayan Villa, Pratappur Naka, P.S. Gandhinagar, Ambikapur, Revenue and Civil District Surguja (C.G.)

... Respondents

WRIT APPEAL NO. 642 OF 2015

Rajesh Agrawal S/o Kapurchand Agrawal, Aged About 44 Years, Caste Agrawal, R/o Rawat Residency Ambikapur, P. S. and Post Ambikapur, Civil & Revenue District Surguja (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, Through : The Secretary, Urban Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (C.G.)
2. The Commissioner, Urban Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (C.G.)
3. The Joint Director, Town and Country Planning, Ambikapur, District Surguja (C.G.)
4. The Collector, Ambikapur, District Surguja (C.G.)
5. The Commissioner, Municipal Corporation, Ambikapur, District Surguja (C.G.)
6. Alok Dubey, S/o. Late Shri T. N. Dubey, Aged About 50 Years, Councilor Nagar Palik Nigam, Ambikapur, R/o. Shivayan Villa, Pratappur Naka, P.S. Gandhinagar, Ambikapur, Revenue and Civil District Surguja (C.G.)
7. Krishna Nand Singh, S/o. Rajendra Bahadur Singh, Aged About 44 Years, Occupation Colonizer, R/o. Kedarpur, Ambikapur, P.S. and Post Ambikapur, Civil & Revenue District Surguja (C.G.)

... Respondents

Mr. Sunil Otwani, Mr. S.C. Verma, Mr. Manoj Paranjpe, Mr. Amrito Das and Mr. Hari Agrawal, Advocates, for the respective Petitioner.

Mr. Prafull Bharat, Additional Advocate General, for Respondent-State.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per NAVIN SINHA, C.J.

10/12/2015

1. The present appeals arise from order dated 19.11.2015 in Writ Petition (C) No. 1767 of 2015.
2. The Learned Single Judge disposed the writ petition in terms of the State Government's letter dated 4.7.2012 addressed to the Commissioner, Municipal Corporation, Ambikapur, for taking necessary action in accordance with the directions regarding illegal constructions.

3. Writ Appeal No. 637 of 2015 arises from the above writ petition. The other appeals have been preferred directly by the house owners on the plea that it is their residential houses which are at stake and they were neither impleaded as parties or heard in the matter. Prayer has been made orally to grant leave to appeal. We dispense with the requirement of a formal application for the purpose otherwise required, in view of the urgency concerning residential houses of the Appellants.
4. The Stamp Reporter is however expected to be careful in future with regard to such defects.
5. We have considered the submissions on behalf of the Appellants and the Additional Advocate General.
6. It is not considered necessary to issue notice to Respondent No.6 because the order dated 4.7.2012 has not ordered for any demolition, but simply directs to take steps in accordance with law under the Chhattisgarh Municipal Corporation Act, 1956 (hereinafter called 'the Act') regarding offending constructions.
7. Needless to state that the Respondent authorities are therefore obliged to proceed strictly in accordance with Sections 293, 300 and other relevant provisions of the Act mandating notice and hearing to the concerned before passing any final orders including the right to appeal by the aggrieved culminating in any final orders. The question of any demolition till this statutory procedure is not complied and completed simply does not arise.
8. The appeals are disposed in the aforesaid terms.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge