

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 102 of 2015**

- Indra Kumar Poptani, Son of Udam Das Poptani, aged about 40 years, residence of Pakki Kholi, Sindhi Colony, Chakradhar Nagar, Raigarh, District Raigarh, Chhattisgarh.

---- Petitioner**Versus**

- Municipal Corporation, Raigarh, Through Commissioner, Municipal Corporation, Raigarh, District Raigarh, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri C.Jayant K. Rao, Advocate
For Respondent	:	Shri Rajesh Ranjan Sinha, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****13/03/2015**

Heard learned counsel for the parties.

1. This writ petition has been preferred by the shopkeeper who was allotted shop in Purani Kachari cum Sethi Market, near S.P. Office, Raigarh. The petitioner has prayed for a direction to the respondent not to evict him from the shop and to allow him to continue his

business in the allotted place till date the new complex is constructed. It has also been prayed that he be allotted such number of shop in the new complex which he is presently occupying and that the cost of construction charged from the petitioner @ Rs.8364.27/- per sq. ft. for the extra area offered to him as well as monthly rent @ Rs.28/- per sq. ft. is exorbitant.

2. This petition was filed on or after 16.1.2015. Considering the stage of construction on that date, this Court passed an interim order on 21.01.2015 directing that the petitioner shall not be evicted from the shop presently in his possession. More than two months have elapsed thereafter.
3. According to Shri Rao, learned counsel appearing for the petitioner, the construction is not yet complete. Countering the said submission, Shri Sinha, learned counsel appearing for the respondent Corporation, would submit that not only the construction, even the finishing work is complete and only some cleaning work remains, which will take about one month time to complete. Petitioner has again shown to this Court some photographs depicting present stage of construction of the shops.
4. Having heard learned counsel for the parties, it appears complete finishing work may take some more time, therefore, it is directed that

the Corporation shall complete the entire finishing work and may bring the shops in the new complex in a ready to move condition and hand over the same to the petitioner on or within one week after 24.04.2015.

5. Shri Rao, learned counsel for the petitioner, would submit that the premium amount charged @ Rs.8364.27 per sq. ft. for the extra space offered to each of the shopkeeper and monthly rent @ Rs.28/- per sq. ft. is exorbitant, which needs to be reduced.
6. Considering the fact that fixation of premium and rent depends on several factors like the location of shops, quality of construction, the ease of doing business and the potency of the area where the shops are situated vis-a-vis the likely business of the petitioner, therefore, this Court in exercise of power under Article 226 of the Constitution of India would not be in a position to adjudicate on the issue as to what would be the true premium or rent of the shops in question. It is better to leave that aspect to be considered and decided by the Corporation for which the petitioner may prefer a representation.
7. Accordingly, it is directed that petitioner may prefer a representation challenging the exorbitance of the premium and rent as well as the number of shops before the Commissioner, Municipal Corporation, Raigarh within a period of 15 days from today. On submission of such

representation, the Commissioner shall consider and decide the same, in accordance with law and on its own merits, on or before 24.04.2015.

8. It is made clear that this Court has not expressed any opinion on the merits of the case and the Commissioner shall decide the representation, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.
9. With the aforesaid observations and directions, the writ petition stands disposed of, leaving the parties to bear their own costs.

JUDGE

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