

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1221 of 2015

- Shranik Jain S/o Shri G.C. Jain Aged About 21 Years R/o Plot Shop No. 169, Sector-CC, Indira Place, New Civil Centre Market, Bhilai Tahsil & District Durg (Chhattisgarh), Civil & Revenue District Durg.

---- Petitioner

Versus

1. Steel Authority Of India Limited Bhilai Steel Plant, Town Services Department, Through Its General Manager, Bhilai Steel Plant, Bhilai, District Durg (Chhattisgarh)
2. The Senior Manager, Town Services Department (Shop Section), Bhilai, District Durg (Chhattisgarh)

---- Respondent

WPC No. 1241 Of 2015

- M/s Fattelal Dulichand Bardia A Partnership Firm Through Its Partner Shri Anil Bardia Acting In The Premises Through His Power Of Attorney Holder Shri Dinesh Jain S/o Shri Gautam Chand Bothra Age about 47 Yrs R/o Plot Shop No. 181, Sector CC Indira Place, New Civic Centre Market, Bhilai, Tahsil & District Durg Chhattisgarh

Civil and Revenue District Durg

---- Petitioner

Vs

1. Steel Authority Of India Limited, Bhilai Steel Plant, Town Services Department Through Its General Manager, Bhilai Steel Plant Bhilai District Durg Chhattisgarh
2. The Senior Manager, Town Services Department (Shop Section) Bhilai District Durg Chhattisgarh

---- Respondent

And

WPC No. 1235 Of 2015

- Premchand Bakliwal S/o Late Motilal Ji Aged About 67 Years

Resident Of Plot Shop No. 179, Sector- CC, Indira Place, New Civil
Centre Market, Bhilai Tahsil & District Durg (Chhattisgarh)

Civil & Revenue District Durg

---- Petitioner

Vs

1. Steel Authority Of India Limited, Bhilai Steel Plant, Town Services
Department, Through Its General Manager, Bhilai Steel Plant,
Bhilai, District Durg (Chhattisgarh)
2. The Senior Manager, Town Services Department (Shop Section),
Bhilai, District Durg (Chhattisgarh)

---- Respondent

For Petitioners	Mr. B.P. Sharma, Advocate
For Respondents	Dr. Saurabh Kumar Pandey, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

16/11/2015

Heard finally with the consent of learned counsel for the parties.

(2) In this batch of writ petitions, the petitioners are aggrieved by the order of similar nature passed by the respondent on 01.06.2015 terminating the lease and cancelling the allotment of plot/shop, which was leased out to the petitioners more than 30 years back.

(3) 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.

(4) 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.

(5) Since the dispute raised in the present batch of writ petitions is exactly similar, they are disposed of in terms of the order passed in W.A. No.438 of 2015. A copy of the order passed in W.A. No.438 of 2015 be retained in files of the present writ petitions.

Sd/-

Judge

(Prashant Kumar Mishra)

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