

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2107 of 2015

- Smt. Kamaljeet Kaur Wd/o Late Sawant Singh Gill, Aged About 51 Years Proprietor M/s Mahendra Travels, Hira Arcade, Shop No. 52, New Bus Stand Padri, Raipur, Tahsil & District Raipur (Chhattisgarh) Civil & Revenue District Raipur (Chhattisgarh)

---- Petitioner

Versus

1. Chhattisgarh State Infrastructure Development Corporation Through Its Divisional Manager, Aamanaka, Raipur (Chhattisgarh)
2. The Tahsildar, District Raipur (Chhattisgarh)

---- Respondent

For Petitioner
For Respondent No.1
For Respondent /State

Mr. B.P. Sharma, Advocate
Mr. Ashish Shrivastava, Advocate
Mr. Arun Sao, Dy. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

30/11/2015

Heard.

(2) The petitioner is an allottee of Shop No.52, New Pandri Bus Stand, Raipur. The said allotment has been cancelled by the Chhattisgarh State Infrastructure Development Corporation (in short "CIDC") and thereafter, proceedings for petitioner's eviction has been initiated under the Chhattisgarh Public Premises Eviction of Unauthorized Occupants Act, 1974. The competent authority under the said Adhiniyam has passed an order of eviction on 20.11.2015, against which, the petitioner has preferred an appeal before the Commissioner, Raipur Division.

(3) The petitioner's appeal was fixed for hearing on 24.11.2015 and thereafter, on 27.11.2015. In the meanwhile, the Tehsildar, Raipur issued a distress warrant against the petitioner on 24.11.2015 directing the petitioner to hand over the vacant possession of the premises to the CIDC by 26.11.2015. It is to be noted that the only intervening day falling in between was a public Holiday being Gurunanak Jayanti. The petitioner preferred this writ petition on 26.11.2015 under the threat of immediate dispossession even during pendency of the appeal before the Commissioner. On the said date, an interim relief was granted in favour of the petitioner by this Court.

(4) The appellate authority considered the petitioner's application for grant of interim relief on 27.11.2015 and has rejected the application. The appeal itself has been fixed for final hearing on 16.12.2015.

(5) Mr. Ashish Shrivastava, learned counsel for CIDC, would submit that at the time of hearing of petitioner's interim application by the appellate authority, it was not brought to its notice that a distress warrant has already been issued on 24.11.2015, Therefore, the entire premises, on which, the petitioner's prayer for interim relief was rejected by the appellate Court was different than the one projected before this Court. He would submit that let the petitioner move a fresh application before the appellate authority for grant of interim relief and the appellate authority may be directed to consider the same in accordance with law.

(6) In view of the submissions made by Mr. Shrivastava, the writ petition is disposed of with a direction that in the event, the petitioner prefers a fresh application for grant of stay before the appellate

authority within a period of one week from today, the said appellate authority shall consider and decide the application afresh on its own merits, without being influenced by its earlier order dated 27.11.2015. In the event of any adverse order, the petitioner would be at liberty to move afresh before this Court. Till the petitioner's interim application is decided by the appellate authority, the petitioner shall not be dispossessed from the subject premises. It is also directed that in the event of rejection of his application for grant of stay, the same shall not be given effect to for a period of one week thereafter.

(7) The writ petition stands disposed of in the above terms.

Sd/-

Judge

(Prashant Kumar Mishra)

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