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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 476 of 2015

- Mohanlal Sahu S/o Late Daulal Sahu Aged About 62 years R/o Ramsagar Para, Ward No. 17, Raipur, Police Station And Post Raipur, Civil And Revenue District Raipur (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: Secretary, Urban Administration Development Department, Mahanadi Bhawan Mantralaya, Capital Complex, Naya Raipur, District Raipur (C.G.)
2. Commissioner, Municipal Corporation, Raipur, District Raipur (C.G.)
3. Municipal Corporation, Raipur, Through Its Commissioner, Municipal Corporation, Raipur (C.G.)
4. Zone Commissioner, Zone No.7, Municipal Corporation, Raipur, Idgah Bhata, New Water Tank Premises, Raipur, (C.G.)
5. Collector Raipur, District Raipur, (C.G.)

---- Respondents

And

WPC No. 478 Of 2015

- Ramanlal Sahu S/o Paulal Sahu Aged About 68 years R/o Ramsagar Para, Ward No. 17, Raipur, Police Station And Post Raipur, Civil And Revenue District Raipur, (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh, Through Secretary, Urban Administration Development Department Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur (C.G.)
2. Commissioner Municipal Corporation, Raipur, District Raipur (C.G.)
3. Municipal Corporation Raipur, Through Its Commissioner, Municipal Corporation Raipur (C.G.)
4. Zone Commissioner, Zone No.7, Municipal Corporation, Raipur, Idgah Bhata, New Water Tank Premises, Raipur (C.G.)
5. Collector Raipur, District Raipur (C.G.)

---- Respondents

And

WPC No. 479 Of 2015

- Kumari Bai Chandrakar W/o. Mohanlal Chandrakar Aged About 38 years
R/o. Ramsagar Para, Ward No. 17, Raipur, Police Station And Post Raipur,
Civil And Revenue District Raipur (C.G.).

---- Petitioner

Vs

1. State Of Chhattisgarh, Through : Secretary, Urban Administration
Development Department, Mahanadi Bhawan, Mantralaya, Capital
Complex, Naya Raipur, District Raipur (C.G.).
2. Commissioner, Municipal Corporation, Raipur, District Raipur (C.G.).
3. Municipal Corporation, Raipur, Through : Its Commissioner, Municipal
Corporation, Raipur (C.G.).
4. Zone Commissioner, Zone No.7, Municipal Corporation, Raipur, Idgah
Bhata, New Water Tank Premises, Raipur (C.G.).
5. Collector, Raipur, District Raipur (C.G.).

---- Respondents

For Petitioners	: Shri Manoj Paranjpe, Advocate
For Respondent/State	: Shri Adhiraj Surana, Dy. Govt. Advocate
For Respondent	: Shri Pankaj Agrawal, Advocate for Municipal Corporation

Order On Board By

19/03/2015

1. Petitioners have preferred this writ petition assailing the notices issued by the Municipal Corporation, Raipur under Sections 322 and 323 of the Municipal Corporation Act, 1956 directing them to remove encroachment failing which they shall be dispossessed from the land and cost thereof shall also be recovered from them.
2. Shri Paranjpe, learned counsel for the petitioners would submit that each of the petitioner is a lessee under a lease granted by the competent authority under the Chhattisgarh Nagariya Kshetron Ke Bhoomihin Vyakti (Pattadhriti Adhikaron Ka

Pradan Kiya Jana) Adhiniyam, 1984 and they are neither encroacher nor trespasser. He would further submit that by the impugned notices petitioners have been granted only 24 hours time to remove the structure. Even though the structures have not yet been removed, the language of the notice carries threat of remove/demolition at any point of time.

3. Shri Agrawal, learned counsel appearing for the Corporation on advance notice would submit that if the petitioners submit a duly constituted representation before the Corporation along with all necessary supporting documents in proof of the lawfulness of their possession, the same shall be examined and the Corporation shall proceed only after passing order on the representation.

4. In view of the above, let the petitioners make a fresh representation along with all necessary documents before the Municipal Corporation within a period of two weeks. The Corporation shall thereafter pass necessary order after giving opportunity of hearing to the petitioners. This may be done within a period of one month after submission of representation.

5. For a period of eight weeks from today, the petitioners shall not be dispossessed.

6. Accordingly, writ petitions are disposed of.

7. It is made clear that this Court has not expressed any opinion on the merits of the case and the respondent-authorities 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.

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