

(14)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

Writ Petition (C) No. 30 /2015

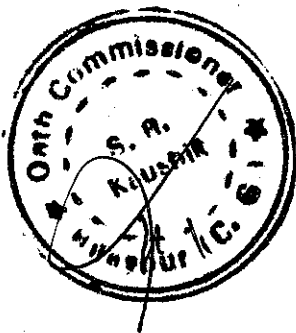
PETITIONER

: Anand Agrawal, S/o. R.P. Agrawal,
aged about 41 years, R/o. 147, Anand
Nagar, Raipur, Police Station and Post
Raipur, Civil and Revenue District
Raipur (C.G.)

VERSUS

RESPONDENTS

- 1] State of Chhattisgarh, Through:
Secretary, Urban Administration and
Development, Mahanadi Bhawan,
Mantralaya, Capital Complex, Naya
Raipur, District Raipur (C.G.)
- 2] Collector, Raipur, District Raipur (C.G.)
- 3] Municipal Corporation, Raipur,
through: its Chief Executive Officer,
Municipal Corporation, Raipur, District
Raipur (C.G.)
- 4] Zone Commissioner, Municipal
Corporation, Raipur, Zone No.3,
Raipur, District Raipur (C.G.)
- 5] Government Employees Cooperative
House Building Society Limited,
Raipur, through: its President,
Government Employees Cooperative
House Building Society Limited, Anand
Nagar, Raipur, District Raipur (C.G.)
- 6] Joint Director, Town & Country
Planning, Raipur, District Raipur (C.G.)



WRIT PETITION UNDER ARTICLES 226 & 227 OF THE
CONSTITUTION OF INDIA

1] PARTICULARS OF THE PETITIONER (S):

As stated above in the cause title.

2] PARTICULARS OF THE RESPONDENT (S):

As stated above in the cause title.

12/11/15

HIGH COURT OF CHHATTISGARH : BILASPUR

W.P.(C) No.30 of 2015

PETITIONER

Anand Agrawal

Versus

RESPONDENTS

State of Chhattisgarh & others

W.P.(C) No.31 of 2015

PETITIONER

Kusum Sen

Versus

RESPONDENTS

State of Chhattisgarh & others

W.P.(C) No.32 of 2015

PETITIONER

Ramchandra Shukla

Versus

RESPONDENTS

State of Chhattisgarh & others

W.P.(C) No.33 of 2015

PETITIONER

Balaji Rao

Versus

RESPONDENTS

State of Chhattisgarh & others

W.P.(C) No.34 of 2015

PETITIONER

Ashish Rastogi

Versus

RESPONDENTS

State of Chhattisgarh & others
And

W.P.(C) No.35 of 2015

PETITIONER

Mohan K. Naidu



51

Versus

RESPONDENTS

State of Chhattisgarh & others

Single Bench : Hon'ble Shri Justice Prashant Kumar Mishra

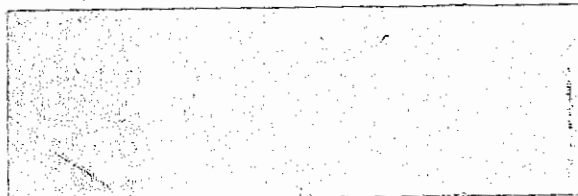
Present :- Shri Manoj Paranjape, counsel for the petitioners.
Shri A. Surana, Dy. GA for the State.
Shri HB Agrawal, Sr. Advocate with Ms. Preeti Yadav, counsel for
the respondent Municipal Corporation.

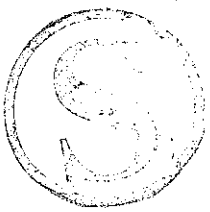
ORAL ORDER

(Passed on this 12th Day of January, 2015)

Heard learned counsel for the parties.

1. The petitioners claim to be in possession of land, which was let out to them by respondent No.5 Society. They have raised construction over the land and are operating shops therefrom.
2. Notices were issued to the petitioners alleging encroachment on the government land. This notice was challenged by the petitioners by filing writ petitions before this Court bearing WP (C) Nos.1832, 1833, 1841, 1843, 1844, 1845, 1846, 1847, 1849 and 1850 of 2014. These petitions were disposed of on 16-9-2014, directing the authorities to enquire the matter and in the event, decision is taken against the petitioners, liberty was reserved in their favour to take recourse to the remedy, as may be available to them under the law.
3. In the present writ petitions, the petitioners have assailed the legality and validity of the document Annexure P-1 issued by Municipal Corporation, Raipur titled as notice under Section 307 (3) of the Municipal Corporation Act, 1956.
4. Learned counsel for the petitioners would submit that without deciding the matter, as directed by this Court earlier, the impugned order has been issued captioning the same as notice. He would further submit that the impugned order has been issued without passing an express order on the basis of reply filed by the petitioners, pursuant to the notice issued to them under Section 307 (2) of the Act, 1956. He would also submit that when the petitioners have raised specific submission that at





the relevant time the area was not within the corporation limits, the said issue has to be dealt with by the corporation but without passing any specific order, in this regard, the order Annexure P-1 has been issued.

5. Learned counsel for the corporation would submit that the petitioners having failed to produce any building plan/sanction on the basis of which the subject construction was made by them, the corporation was left with no option but to pass an order under Section 307 (3) of the Act, 1956.
6. On perusal of the papers annexed with the writ petitions and the submission made by learned counsel for the parties, it would appear that the subject matter of the earlier writ petitions and the subject matter of the present writ petitions are different. The earlier writ petitions were challenging the notice for removal of encroachment, whereas the present proceedings are initiated by the corporation under Section 307 of the Act, 1956 for removal of illegal construction, which according to the corporation has been raised in contravention of the Act, 1956 and bye-laws made thereunder.
7. Be that as it may, the impugned order mentions that the petitioners have not submitted any reply to the notice within time, whereas it is the assertion of the petitioners that they had filed reply to the notice issued to them under Section 307 (2) of the Act, 1956. It appears, had the reply been considered, the corporation would have passed an order in this regard.
8. Considering the entire facts situation of the case, these writ petitions are disposed of with a direction that the respondent corporation shall consider the reply submitted by the petitioners in response to the show-cause notice issued to them under Section 307 (2) of the Act, 1956, thereafter the corporation shall pass a reasoned order after giving opportunity of hearing to the petitioners, before proceeding further in the matter.
9. Till the corporation passes fresh order in the matter, the subject construction shall not be demolished.

Sd/-
Prashant Kumar Mishra
Judge