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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 7 of 2016

- Rahul Kumar Paraswani S/o Late Ramchander Paraswani, Aged About 28 Years R/o Juna Bilaspur, Bilaspur District Chhattisgarh State. Pin 495001

---- Petitioner

Versus

1. Municipal Corporation, Bilaspur Through Its Commissioner, Municipal Corporation Office, Bilaspur, Chhattisgarh State Pin 495001
2. District Collector, Collectorate, Bilaspur, Bilaspur District Chhattisgarh State Pin 495001

---- Respondent

And

WPC No. 11 Of 2016

- Gajanand Shrivastava S/o R.L. Shrivastava, Aged About 58 Years R/o Kududand, Bilaspur Chhattisgarh State Pin 495001

---- Petitioner

Vs

1. Municipal Corporation, Bilaspur Through Its Commissioner, Municipal Corporation Office, Bilaspur, Chhattisgarh State Pin 495001
2. District Collector, Collectorate, Bilaspur, Bilaspur District Chhattisgarh State Pin 495001

---- Respondent

And

WPC No. 9 Of 2016

- Krishna Narayan Pandey S/o Shri S.N. Pandey, Aged About 40 Years R/o Behind Telephone Exchange, Imlipara, Bilaspur,

Bilaspur District, Chhattisgarh State PIN 495001

---- Petitioner

Vs

1. Municipal Corporation, Bilaspur Through Its Commissioner,
Municipal Corporation Office, Bilaspur, Chhattisgarh State, Pin
495001
2. Dist. Collector, Collectorate, Bilaspur, Bilaspur Distirct
Chhattisgarh State Pin 495001

---- Respondent

For Petitioners : Shri KR Nair, Advocate.

For Respondent No.1 : Shri AS Kachhawaha, Advocate.

For Respondent No.2 : Shri Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

07/01/2016

1. The petitioners are shop keepers having obtained the shops on lease or occupying the shops with the consent of the lessee from the Municipal Corporation, Bilaspur situated at Imlipara Road, Old Bus Stand at Khasra No.488.
2. The petitioners would assail the notice (Annexure-P/1) dated 31.5.2015 and the notice dated 8.10.2015 whereby the petitioners have been directed to produce the ownership papers in relation to the shops in question within 7 days failing which the Corporation shall remove the encroachment. A similarly placed shop keeper had earlier preferred WPC No.1870/2015 (Pawan

Agrawal Vs. Municipal Corporation, Bilaspur), which was disposed of by this Court on 15.10.2015 in the following manner:-

“5. The dispute is of factual nature and therefore, it would require measurement at the spot itself. Since the petitioner holds registered lease in his favour it would be fair to direct the Corporation to demarcate the shop and identity of it whether it is situated over Kh.No.488 or not according to the lease deed which has been executed in favour of the petitioner and shall also be obliged to demarcate the lease hold area, which was granted to the petitioner. The entire issue will settle down if the demarcation report comes to fore. After the demarcation is done the petitioner shall be at liberty to take recourse to remedy as may be available to him under the law.

6. In the meanwhile, it is directed that till the demarcation is done as directed above, the Corporation shall not take any coercive steps against the petitioner in respect of the shop in question.”

3. It is informed that the petitioners have submitted copy of the lease deed before the Corporation and the demarcation directed in WPC No.1870/2015 has already been carried out. However, it is not clear at this stage as to whether demarcation has also covered the petitioners' shops.
4. The nature of controversy raised by the petitioners and the earlier order passed by this Court necessitates providing an opportunity of hearing including personal hearing to the petitioners by the respondent Corporation.
5. Therefore, the writ petitions are disposed of with a direction that

the petitioners shall submit all the relevant documents before the respondent Corporation within a period of 10 days from today. Based on the demarcation report prepared pursuant to the order passed by this Court in WPC No.1870/2015 and demarcation of the petitioners' shop, which may be done, if not already done, the Corporation shall provide personal hearing to the petitioners and thereafter a reasoned order be passed by the Corporation within a period of 4 weeks thereafter. Till the Corporation passes the above stated order, the petitioners' shops shall not be demolished.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve