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**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 98 of 2016**

- Radhey Shyam Nathani S/o Late Alam Chand Nathani, Aged About 66 Years R/o Chakrabhatta Camp, Bilaspur, Bilaspur District, Chhattisgarh State, Pin 495220

---- **Petitioner****Versus**

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

---- **Respondents**


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| For Petitioner      | : | Shri KR Nair, Advocate                                             |
| For Respondent No.1 | : | Shri BL Sahu, Advocate on behalf of Shri A.S. Kachhawaha, Advocate |
| For Respondent No.2 | : | Shri Adhiraj Surana, Dy. GA for the State                          |

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**Hon'ble Shri Justice Prashant Kumar Mishra****Order On Board****15/01/2016**

1. The petitioner is shop keeper having obtained the shop on lease or occupying the shop with the consent of the lessee from the Municipal Corporation, Bilaspur situated at Implipara Road, Old Bus Stand at Khasra No.488.
2. The petitioner would assail the notice (Annexure-P/1) dated 31.5.2015 and the notice dated 8.10.2015 whereby the petitioner has been directed to produce the ownership papers in relation to the shop 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 petition is disposed of with a direction that the petitioner 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 petitioner's shop, which may be done, if not already done, the Corporation shall provide personal hearing to the petitioner 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 petitioner's shops shall not be demolished.

Sd/-

Judge

(Prashant Kumar Mishra)

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