

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 267 of 2016

M/s Arya Business Private Limited , Through Its Director Shri Niranjana Lal Zindal,
Having Its Registered Office At Station Road, Satkar Hotel Lane, Raipur,
Chhattisgarh(Respondent)

---- Petitioner

Versus

1. Golden Sky Residents Association V I P Road , Raipur, A Society Duly Registered Under The C.G. Societies Registrations Adhiniyam, Having Its Registration No. 33985, Acting In The Premises Through Its Secretary Shri Prafulla Pare, Son Of Shri Sridhar Pare, Aged About 45 Years, Resident Of A/304, Golden Sky, V I P Road, Raipur, District Raipur, Chhattisgarh
2. Prafulla Pare S/o Shri Sridhar Pare, Aged About 45 Years R/o A/304, Golden Sky, V I P Road, Raipur, District Raipur, Chhattisgarh
3. State Of Chhattisgarh, Through Its Secretary, Department Of Urban Administration, Secretariat, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
4. The Municipal Corporation, Raipur Through Its Commissioner, Municipal Corporation, Raipur, Chhattisgarh
5. The Town And Country Planning Authority Department, Through Its Director/ Joint Director, Raipur, Chhattisgarh
6. The Tahsildar, Raipur, Chhattisgarh(Petitioners)

---- Respondents

For Petitioner	:	Shri Amrita Das, Advocate
For Respondents No. 1 & 2	:	Shri B.P. Sharma, Advocate
For Respondent-State	:	Shri Chandresh Shrivastava, Panel Lawyer
For Respondent No.4	:	Shri Pankaj Agrawal, Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02/05/2016

Heard.

1. This application has been filed by the petitioner for recall of the order dated 1.2.2016 passed in WPC No.254 of 2016.
2. Learned counsel for the petitioner submits that the respondents No. 1 & 2 earlier filed two petitions WPC No.1762 & 1822 of 2015 on the same subject matter and both the petitions were dismissed as withdrawn. He submits that thereafter third petition was filed WPC No.254 of 2016 and prayer was made for issuance of direction ventilating the same grievance that despite report dated 4.9.2015, no steps have been taken by the Tahsildar. On this submission made before the Court, this Court has made observation in para-4 of the order which is being wrongly construed as a direction for holding fresh inquiry in the matter. It is submitted that report dated 4.9.2015, on its proper construction, does not record any encroachment as alleged by respondents No. 1 & 2. However, the order passed by this Court is being construed as if this Court has issued a direction accepting the report dated 4.9.2015 as the report of encroachment.
3. On the other hand, learned counsel for the respondents No. 1 & 2 submits that filing of two petitions and order passed therein were not suppressed but it was disclosed to the Court. He submits that according to respondents No. 1 & 2, report dated 4.9.2015 should be treated as a report of encroachment as there are material which shows the encroachment.
4. This Court had disposed off WPC No.254 of 2016 at the motion hearing stage itself. The contention of writ petitioners therein were recorded. This Court did not record any finding on the issue as to whether there is any encroachment or not. This Court has also not recorded any finding to hold that report dated 4.9.2015 constitutes a material of encroachment. This Court only disposed off the matter in

view of the statement made by the State counsel.

5. It would be open for the concerned authority to take appropriate decision in the matter. The order dated 1.2.2016 should not be construed as any direction which is clear from observation made in para-4 of the order.
6. The MCC is accordingly disposed off with the said clarification.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen