

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1595 of 2016

1. Smt. Shyam Bai Sahu W/o Late Shri Sukhiram Sahu, Aged About 65 Years
2. Hemant Sahu, S/o Late Shri Sukhiram Sahu, Aged About 48 Years

Both are R/o Talab Para/ Sahu Para, Daganiya, Pandit Deen Dayal Upadhyay Nagar Ward, Raipur, P.S. Deen Dayal Upadhyay Nagar, Raipur, Tahsil & District Raipur, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: The General Administration Department, Mahanadi Bhawan, Mantralaya, Raipur, Tahsil & District Raipur, (Chhattisgarh)
2. The Municipal Corporation, Raipur, Through: The Commissioner, Municipal Corporation, Raipur, Tahsil & District Raipur, (Chhattisgarh)
3. The Zone Commissioner, Municipal Corporation, Raipur, Zone No.5, Idgah Bhatha, Water Tank, Raipur, Tahsil & District Raipur, (Chhattisgarh)

---- Respondent

And

WPC No. 1599 Of 2016

- Santosh Kumar Sahu S/o Late Shri Manrakhan Sahu, Aged About 45 Years R/o Talab Para / Sahu Para Daganiya Pandit Deen Dayal Upadhyay Nagar Ward Raipur, P.S. Den Dayal Upadhyay Nagar, Raipur Tahsil & District Raipur Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through The General Administration Department, Mahanadi Bhawan, Mantralaya, Raipur, Tahsil & District Raipur Chhattisgarh
2. The Municipal Cunicipal Raipur, Through The Commissioner, Municipal Corporaiton Raipur Tahsil & District Raipur Chhattisgarh
3. The Zone Commissioner, Municipal Corporation, Raipur Zone No. 5, Idgah Bhatha, Water Tank, Raipur, Tahsil & District Raipur Chhattisgarh

---- Respondent

For Petitioners	Shri S. C. Verma, Advocate
For Respondent-State	Shri Vivek Sharma, GA
For Respondent-Municipal Corporation	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

24/06/2016

1. These two writ petitions have been preferred by the residents of Talab Para/Sahu Para, Daganiya, Pandit Deen Dayal Upadhyay Nagar Ward, Raipur challenging the notice issued by the Municipal Corporation, Raipur directing the petitioners to remove encroachment and obtain allotment of house in the BSUP Scheme of the government.
2. Shri Verma, learned counsel for the petitioners, would submit that petitioner Smt. Shyam Bai Sahu in WPC No.1595/2016 had purchased the land in question from the erstwhile owner by registered sale deed in the year 1973. Similarly, petitioner Santosh Kumar Sahu in WPC No.1599/2016 was granted lease of intra municipal nazul land by the State Government through the Deputy Commissioner on 08.08.1956, therefore, both the petitioners are entitled to protect their possession being the owner of the land. He would further submit that the respective petitioners have been branded as encroacher without giving any opportunity of hearing and the threat of immediate removal of possession and demolition is looming large over their head. Day before yesterday, the Corporation employee reached to the spot with JCB machine for demolishing the house, where the petitioners are residing since last more than 40 years.

3. Shri Pankaj Agrawal, learned counsel for the Municipal Corporation, Raipur, on advance notice would submit that if the petitioners have responded to the notice and preferred any representation, the same shall be duly considered.
4. Considering the entire facts situation of the case, the writ petitions are disposed of with a direction that if the petitioners submit fresh representation or reply along with complete documents in support of their stand before the competent authority of the Municipal Corporation, Raipur within a period of 2 weeks from today, the Municipal Corporation shall afford proper opportunity of hearing to the petitioners including personal hearing and thereafter pass a reasoned order in respect of the subject property.
5. Let the entire process be completed by the Municipal Corporation within a period of 2 months from today. If it is found that the petitioners are the lawful owners of the land in question, the Municipal Corporation shall not evict them without taking recourse to law. However, if they are found to be encroachers, the petitioners may be directed to remove their possession by giving atleast 7 days notice.
6. The writ petitions thus stand disposed of in the above stated terms. Till the Municipal Corporation passes the above referred order, there shall be no demolition or vacation of possession of the petitioners from the subject premises.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA