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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1303 of 2016

1. Smt. Jyotsna Singh Parihar W/o Late Anil Kumar, Aged About 46 Years
2. Shivam Singh, S/o Late Anil Kumar, Aged About 23 Years
3. Shubham Singh, S/o Late Anil Kumar, Aged About 20 Years

All are R/o Ekta Chowk, Kawardha, Police Station Kawardha,
District Kabirdham, (Chhattisgarh)

---- Petitioner

Versus

1. The State Of Chhattisgarh Through The Principal Secretary,
Urban Administration Department, Mahanadi Bhawan, New
Raipur, (Chhattisgarh)
2. The Collector, Kabirdham, District Kabirdham, (Chhattisgarh)
3. The Sub Divisional Officer, Kawardha, Distt. Kabirdham,
(Chhattisgarh)
4. The Municipal Council, Kawardha, Through The Chief Municipal
Officer, Kawardha, Distt. Kabirdham, (Chhattisgarh)

---- Respondent

And

WPC No. 1324 Of 2016

- Rajesh S/o Late Mahendra Singh Parihar, Aged About 37 Years
R/o Ekta Chowk Kawardha, Police Station Kawardha, District
Kabirdham (Chhattisgarh)

---- Petitioner

Vs

1. The State Of Chhattisgarh Through The Principal Secretary,
Urban Administration Department Mahanadi Bhawan New
Raipur (Chhattisgarh)
2. The Collector, Kabirdham, District Kabirdham (Chhattisgarh)
3. The Sub- Divisional Officer, Kawardha, District Kabirdham
(Chhattisgarh)
4. The Municipal Council Kawardha, Through The Chief Municipal
Officer, Kawardha, District Kabirdham (Chhattisgarh)

---- Respondent

And

WPC No. 1292 Of 2016

- Malvendra Singh S/o Late Narendra Singh Parihar, Aged About 48 Years R/o Ekta Chowk Kawardha, Police Station Kawardha, District Kabirdham, (Chhattisgarh)

---- Petitioner

Vs

1. The State Of Chhattisgarh Through The Principal Secretary, Urban Administration Department, Mahandi Bhawan, New Raipur, (Chhattisgarh)
2. The Collector, Kabirdham, Distt. Kabirdham, (Chhattisgarh)
3. The Sub Divisional Officer, Kawardha, Distt. Kabirdham, (Chhattisgarh)
4. The Municipal Council, Kawardha, Through The Chief Municipal Officer, Kawardha, Distt. Kabirdham (Chhattisgarh)

---- Respondent

And

WPC No. 1177 Of 2015

- Ganesh Prasad Awasthy S/o Late Shyam Prasad Awasthy Aged About 58 Years R/o Old Civil Court Kawardha, Police Station Kawardha District Kabirdham Chhattisgarh

---- Petitioner

Vs

1. The State Of Chhattisgarh Through The Principal Secretary, Urban Administration Department Mahanadi Bhawan New Raipur Chhattisgarh
2. The Collector Kabirdham, District Kabirdham Chhattisgarh
3. The Sub Divisional Officer Kawardha, Kabirdham, District Kabirdham Chhattisgarh

---- Respondent

And

WPC No. 1874 Of 2016

1. Ganesh Kumar Tiwari S/o Late Ramgulam Tiwari, Aged About 50 Years

2. Ramesh Kumar Tiwari, S/o Late Ramgulam Tiwari, Aged About 45 Years

3. Smt. Gangabai, W/o Late Ramgulam Tiwari, Aged About 75 Years

All R/o Village Tiwari Navagaon, Present Address Gandhi Chowk
Kawardha, Police Staiton Kawardha, District Kabirdham
Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Principal Secretary, Urban
Administration Department Mahanadi Bhawan, New Raipur
Chhattisgarh

2. The Collector, Kabirdham, District Kabirdham Chhattisgarh

3. The Sub Divisional Officer, Kawardha, District Kabirdham
Chhattisgarh

4. The Municipal Council Kawardha, Through The Chief Municipal
Officer, Kawardha, District Kabirdham Chhattisgarh

---- Respondent

For Petitioners	Mr. Mahesh Pandey, Advocate
For Respondent/State	Mr. Arun Sao, Dy. AG
For Respondent/Municipal Council	Mr. Rajnish Singh Baghel, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

3/8/2016

1. Mr. Sudesh Kumar Singh, Chief Municipal Officer, Kawardha,
District Kabirdham is present in person.

2. This batch of writ petitions have been filed by the residents of
Kawardha Township, whose buildings have been demolished
and the land has been used by the Municipal Council for
widening of road in the year 2006. The petitioners have prayed
for grant of compensation along with interest from the date of
dispossession.

3. When this matter had come up for hearing on 27.07.2016, it was observed that several petitions are pending and in each of the petitions, the Municipal Council is making payment of compensation after receiving notice and the Municipal Officers are stating that whosoever prefers writ petition will be paid the compensation.
4. Since this amounts to driving a citizen to the jurisdiction of the Court encouraging avoidable litigations, this Court had summoned CMO of the concerned Municipality to explain the situation.
5. Mr. Sudesh Kumar Singh, Chief Municipal Officer, Kawardha, District Kabirdham would submit that the communication/request has been sent to the State Government for making available the required funds for payment, however, the funds have not been made available, therefore, as and when writ petitions have been filed and notices have been issued to the Municipal Council, the Council is making payment by arranging funds from some other heads/accounts in the Municipality. He would submit that in the absence of funds being made available by the State Government, if the payments are made without intervention of the Court, the CMO would be held responsible in the audit for diverting the funds, therefore, as and when writ petitions were filed, payments have been made so that proper explanation may be offered in the audit. He would submit that there is no malafide or ill-intention to compel any of the citizen to unnecessarily indulge in litigations. He would further submit that in all the present writ petitions, payments of the originally assessed amount have been made to the petitioners.

6. At this stage, Mr. Mahesh Pandey, learned counsel for the petitioners, would submit that the amount of interest has not yet been paid to the petitioners, therefore, the respondents be directed to make payment of the amount of interest at the earliest.
7. Ordinarily, when land is acquired, payment of interest is calculated from the date of dispossession, therefore, the Municipality is *prima facie* responsible and liable to pay interest on the amount from the date of dispossession.
8. Let each of the petitioners make representations before the Municipality for calculation and payment of the amount of interest payable to them. On such representations being made, the concerned Municipality shall decide the representation within a period of 03 months. Whatever be the amount of interest, the same would be made available to the concerned Municipality by the concerned Department. The Principal Secretary or the Secretary of the concerned Department shall ensure that the funds are made available to the concerned Municipality. If the above payment of interest is not made within a period of 03 months from the date of submission of representations, the petitioners would be at liberty to move contempt petition against the CMO as well as the concerned Director or Commissioner and the Secretary.
9. The writ petitions are disposed of in the above stated terms.

Sd/-

Judge

(Prashant Kumar Mishra)