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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1465 of 2015

- Ajay Kumar Fotani S/o Late Narayan Das Fotani Aged About 37 Years
R/o Ward No.6 Khairagarh, Police Station Khairagarh, District
Rajnandgaon, (Chhattisgarh)

---- Petitioner

Versus

1. The State Of Chhattisgarh Through The Principal Secretary Urban
Administration And Development Department, Mahanadi Bhawan,
New Raipur, Chhattisgarh
2. The Collector, Rajnandgaon, District Rajnandgaon, (Chhattisgarh)
3. The Municipal Council Khairagarh, Through The Chief Municipal
Officer, Khairagarh, District Rajnandgaon, (Chhattisgarh)

---- Respondent

And

WPC No. 1466 Of 2015

- Sanjay Kumar Fotani S/o Late Pratap Rai Fotani Aged About 34 Years
R/o Ward No.6, Khairagarh, Police Station Khairagarh, District
Rajnandgaon, (Chhattisgarh)

---- Petitioner

Vs

1. The State Of Chhattisgarh Through The Principal Secretary Urban
Administration And Development Department, Mahanadi Bhawan,
New Raipur, Chhattisgarh
2. The Collector, Rajnandgaon, District Rajnandgaon, (Chhattisgarh)
3. The Municipal Council Khairagarh, Through The Chief Municipal
Officer, Khairagarh, District Rajnandgaon, (Chhattisgarh)

---- Respondent

And

WPC No. 1467 Of 2015

- Sachchanand Ahuja S/o Late Tikiyamal Ahuja Aged About 51 Years R/o Ward No.11 Khairagarh, Police Station Khairagarh, District Rajnandgaon, (Chhattisgarh)

---- Petitioner

Vs

1. The State Of Chhattisgarh Through The Principal Secretary, Urban Administration And Development Department, Mahanadi Bhawan, New Raipur, (Chhattisgarh)
2. The Collector, Rajnandgaon, District Rajnandgaon, (Chhattisgarh)
3. The Municipal Council Khairagarh, Through The Chief Municipal Officer, Khairagarh, District Rajnandgaon, (Chhattisgarh)

---- Respondent

And

WPC No. 1469 Of 2015

1. Vijay Kumar Fotani S/o Late Govindram Fotani Aged About 49 Years
2. Premchand Motwani S/o Late Kishandas Motwani Aged 47 Years
3. Naresh Bhavnani S/o Late Anandram Sukhija Aged 39 Years
4. Sanjay Fotani S/o Mohandas Fotani Aged 40 Years

All having Shops And Doing Business At Ward # 7, Gol Bazaar Khairagarh, District Rajnandgaon

---- Petitioner

Vs

1. State Of Chhattisgarh Through Collector, Rajnandgaon, (Chhattisgarh)
2. Nagar Palika Parishad, Khairagarh, Through Its Chief Municipal Officer.

---- Respondent

For Petitioners : Shri Raja Sharma and Shri Abhishek Pandey, Advocates.
For Respondents 1 & 2 : Shri PK Bhaduri, Govt. Advocate.
For Respondent No.3 : Shri Sudeep Agrawal, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

19/01/2016

1. The petitioners are shop keepers having raised temporary structures on the land leased out to them at Khairagarh by the Collector, Rajnandgaon.
2. The Municipal Council, Khairagarh has planned to construct shops, complex/Vyavasayik Parisar on the land including the land leased out to the petitioners. For raising construction of the said complex, the Municipal Council has issued notice (Annexure-P/1) directing the petitioners to hand over the vacant possession of the land to the Municipal Council.
3. Challenging the order, learned counsel for the petitioners would submit that the petitioners have been granted lease of the subject land by the State Government through the Collector, therefore, till the lease is subsisting, the Municipal Council cannot direct the petitioners to hand over vacant possession of the land.
4. On the other hand, Shri Agrawal, learned counsel for the Municipal Council, Khairagarh would refer to the averments made in the return to submit that once the construction of the shops are completed, one of the shops would be allotted to each of the petitioners and in the meanwhile, the petitioners would be shifted to some temporary site near the Government Hospital, Khairagarh. He would submit that in the interest of planned development of the city, the petitioners should agree to

vacate the premises to make way for construction of the complex.

5. Having heard learned counsel for the parties and on perusal of the papers, it would appear that the petitioners or their predecessor in interest have been granted lease of the subject land by the Collector, therefore, till the lease subsists, the Municipal Council cannot coerce them to vacate the area. If the petitioners agree to vacate the premises on their own so as to allow construction of the complex and later on, to receive allotment of one of the shops, it would remain open for the parties to reach to the settlement, otherwise the Municipal Council is required to move before the State authorities for making available the area by taking decision pertaining to the lease area presently in occupation of the petitioners and thereafter to proceed with construction in accordance with law.
6. Till any of the above steps are taken by the parties or by the Municipal Council, the petitioners' possession on the land in question shall not be disturbed.
7. The writ petitions are accordingly disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve