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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1596 of 2015

1. Prakash Rathore S/o Late Shankar Lal Rathore, Aged About 45 Years R/o Ward No. 04, Ahiwara, Tahsil Dhamdha, District Durg (Chhattisgarh)
2. Babu Lal Agrawal, S/o Late Ganga Ram Agrawal, Aged About 55 Years R/o Ward No. 04, Ahiwara, Tahsil Dhamdha, District Durg (Chhattisgarh)
3. Premnarayan Agrawal, S/o Late Ganga Ram Agrawal, Aged About 57 Years R/o Ward No. 04, Ahiwara, Tahsil Dhamdha, District Durg (Chhattisgarh)
4. Suresh Chand Nahta, S/o Shri Dharami Chand, Aged About 57 Years R/o Ward No. 04, Ahiwara, Tahsil Dhamdha, District Durg (Chhattisgarh)

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration & Development, Mantarlaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. The Collector Durg, District Durg (Chhattisgarh)
3. The Sub-Divisional Officer (Revenue), Dhamdha Headquarter Durg, District Durg (Chhattisgarh)
4. The Municipal Council Ahiwara, Through Its Chief Municipal Officer, Municipal Council Ahiwara, District Durg (Chhattisgarh)
5. Chief Municipal Officer, Municipal Council Ahiwara, District Durg (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri Ashish Surana, Advocate
For Respondents No.1, 2 & 3/State	:	Shri B. Gop Kumar, Dy.A.G.
For Respondents No.4 & 5	:	Shri P.R. Patankar, Advocate

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

Order On Board

08/03/2016

Heard.

1. The petitioners have filed this petition aggrieved by the notice issued to the petitioners alleging encroachment.
2. Learned counsel for the parties did not dispute that a civil suit has already been filed by the petitioners in which the dispute is identical to one which has been raised in this petition, though from time to time different notices have been issued to the petitioners. It has also been brought to the notice of this Court that in the pending suit, application for temporary injunction filed by the petitioners has been rejected. It is because of the issuance of 3rd notice that the petitioners have approached this Court alleging that without opportunity of hearing, notices have been issued on the allegation of encroachment.
3. Be that as it may, the petitioners having already approached the Civil Court and the dispute appears to be more of factual nature, in my discretion, I am not inclined to entertain this petition. This is more so when the petitioners have already approached the Civil Court and order on injunction application has already been passed rejecting the application.
4. The petition is therefore dismissed. However, considering that the petitioners have a remedy of filing appeal against the order rejecting application for grant to injunction and the consequence may be serious in nature of demolition, it is directed that for a period of 45 days, demolition shall not take place. This is only to enable the petitioners to take remedy of appeal and nothing more. It is made clear that there is no order on merits by this Court and in the event any appeal is preferred by the petitioners, the appellate authority shall consider the same in accordance with law, without

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being influenced by the fact that a limited protection was granted to the petitioners.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen