

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.1818 of 2015**

Moh. Irfan S/o Late Abdul Arman, Aged About 30 Years R/o Tahsil Chaowk, Akta Nagar, Pendra Road, District Bilaspur Chhattisgarh

---- **Petitioner****Versus**

1. Chief Executive Officer, Nagar Panchayat, Pendra Raod (Gaourella) District Bilaspur Chhattisgarh
2. State Of Chhattisgarh, Through Collector, District Bilaspur Chhattisgarh
3. Sub Divisional Officer, Pendra Road, (Gaourella) District Bilaspur Chhattisgarh
4. State Of Chhattisgarh, Through S.H.O. Gaurella, District Bilaspur Chhattisgarh

---- **Respondent**

For Petitioner	:	Shri Hemant Gupta, Advocate
For Respondent No.1	:	Shri Ashok Soni, Advocate
For Respondent/State	:	Ms. K. Tripti Rao, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****23/02/2016**

Heard.

2. Case of the petitioner is that he was running a shop in the earlier location and the respondent-Nagar Panchayat offered him to construct new shop at the same spot. Therefore, as a temporary measure, the petitioner was shifted to another shop in the newly constructed complex. However, thereafter, no shop has been constructed and now the petitioner is being compelled to vacate the present shop without there being any shop constructed by the respondent-Nagar Panchayat.

3. On the other hand, learned counsel for respondent No.1 submits that the earlier location was again handed over to the petitioner and temporary shop which has already been constructed which is better than the earlier dilapidated hutment, was being occupied by the petitioner. He submits that the petitioner has also shifted to the earlier location and is carrying out his business.

4. Learned counsel for the petitioner disputes this position and submits that there is no order or letter allowing the petitioner to re-occupy the earlier location.
5. The question whether the petitioner has been allowed to re-occupy and whether he has actually re-occupied the earlier location, is a matter of fact finding enquiry. However, once the petitioner has re-occupied the earlier location, he cannot claim to continue in the shop temporarily allotted to him and he may be asked to vacate the shop.
6. In that view of the matter, it is directed that the SDO (Revenue), Pendra Road shall get the proceedings of handing over of possession of old location to the petitioner either by himself or his authorized representative on a date to be fixed by him, after notice to the petitioner and Nagar Panchayat concerned and panchnama of formal handing over to the possession shall be prepared and thereafter, the petitioner will have to vacate the existing shop No.6 in the newly constructed complex.
7. Accordingly, the petition is partly allowed.

Sd/-
Manindra Mohan Shrivastava
Judge