

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1392 of 2016**

1. Gurubaksh Singh @ Bakshi S/o Late Prem Singh Saluja, Aged About 57 Years R/o Purana Bas Stand Bemetara, District Bemetara (Chhattisgarh)
2. Nimorlak Singh, S/o Late Sujit Singh, Aged About 45 Years R/o Panjabi Para, Bemetara, District Bemetara (Chhattisgarh) ---- **Petitioners**

Versus

1. Benlal Tamrakar S/o Sukhru Prasad, R/o Shiva Traders Bemetara, Tehsil And District Bemetara (Chhattisgarh)
2. Sub Divisional Officer (Revenue) Bemetara District Bemetara (Chhattisgarh)
3. District Municipal Council, Bemetara, Through Its Chief Municipal Officer, Bemetara, District Bemetara (Chhattisgarh) ---- **Respondents**

For Petitioners	:	Shri Sunil Otwani, Advocate.
For Respondent No.1	:	Shri P.P.Sahu, Advocate
For Respondent No.2	:	Shri U.N.S.Deo, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****17/08/2016**

Petitioners have called in question the order dated 25.05.2016 passed by the Municipal Council, Bemetara, directing them to vacate the premises so that the dilapidated structure can be pulled down as it has become unfit for human habitation.

2. On an earlier occasion, the S.D.O. (Revenue), Bemetara has passed an order 28.04.2015 directing the Municipal Council, Bemetara to initiate the proceedings under Section 221 of the Chhattisgarh Municipalities Act, 1961 (for short 'the Act of 1961'). This order was challenged by the petitioners in writ

petition being WPC No.849 of 2015, which was disposed off on 26.10.2015 reserving liberty to respondent No.1 herein to move appropriate application before the concerned Municipality and on such application being made, the Municipality shall decide the matter in accordance with the provisions contained under Section 221 of the Act of 1961 after giving opportunity of hearing to the petitioners.

3. After the above order was passed in WPC No.849/2015, respondent No.1 moved an application under Section 221 of the Act of 1961 wherein the impugned order has been passed.

4. In the present writ petition, this Court passed the following order on 01.06.2016 :-

“01.06.2016 Shri Sunil Otwani, Advocate for the petitioners.

Shri B. Gop Kumar, Dy. A.G. for the State/Respondent No.2 on advance copy.

Heard on admission.

Issue notice to the respondents No. 1 & 3 on payment of process fee within a week.

Notice be made returnable within four weeks.

Till the next date of hearing, petitioner shall not be dispossessed from the tenanted premises pursuant to the impugned order dated 25.05.2016 (Annexure P/1). However, after six weeks, petitioner shall submit a report along with photograph whether it has carried out the necessary repairs in the premises. A report of necessary repair shall also be submitted to the respondent No.3 within five weeks.

List this case after six weeks.”

5. Shri Sunil Otwani, learned counsel appearing for the petitioners would submit that pursuant to the above interim order, the petitioners have carried out

the repairs, which is clearly depicted in the fresh photographs filed along with the rejoinder.

6. In view of the subsequent development wherein the petitioners have allegedly undertaken the repairs in view of the interim order passed by this Court, the condition of the property may not be the same as it was when the impugned order was passed, therefore, in the facts and circumstances of the case, the writ petition deserves to be disposed off with observation that if respondent No.1/landlord so desires, he may initiate proceedings for eviction of the petitioners on the grounds available to him under the Chhattisgarh Rent Control Act, 2011. In the said proceedings, respondent No.1 may also pray for appointment of Commissioner to assess the condition of the tenanted premises. When any such commission is issued, both the parties shall have the opportunity to present their respective cases and assist the Commissioner and depending upon the nature of the report, the parties would be at liberty to raise objection before the Rent Controlling Authority.

7. The impugned order shall not be acted upon till the matter is decided by the Rent Controlling Authority or by any other forum, as available to the parties in law having jurisdiction over the matter.

8. With the aforesaid observation and direction, the writ petition stands disposed off.

Sd/-
Judge
(**Prashant Kumar Mishra**)