

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No.6253 of 2010

M/s Project Automobiles a Partnership firm duly registered under the relevant provisions of the Indian Partnership Act, 1932 having its registered office at Power House, G.E. Road Bhilai, District Durg (CG) acting into the premises through its Authorized Signatory Shri Gulab Jain, son of late Shri Lal Chand Jain, aged about 51 years, resident of 103 Gokul Apartment, Choubey Colony, Raipur (CG).

---- Petitioner

Versus

Municipal Corporation Bhilai, a body constituted under the relevant provisions of the C.G. Municipal Corporation Act, 1956 through its Commissioner, Municipal Corporation, Supela, Bhilai, District Durg (CG).

Steel Authority of India, through the Chairman-cum-Managing Director/General Manager, Bhilai Steel Plant, Bhilai District Durg (CG).

--- Respondents

For Petitioner :Mr. B.P. Sharma and Mr. Manay Nath Thakur,
Advocates

For Respondent :Mr. Manoj Paranjpe & Mr. Shailendra Shukla,
Advocates

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

11/12/2017

(1) Learned counsel appearing for the petitioner would submit that the petitioner's lease has been cancelled by respondent vide order dated 31.07.2010, which is illegal and bad in law. He would submit that the Municipal Corporation has cancelled the lease executed in favour of the petitioner on the ground that the lease premises were allotted only to use the premises for automobiles business and it cannot be used for other purposes, which is contrary to Section 11 of the Transfer of Property Act. He would further submit that doctrine of Blue Pencil has been propounded by the Supreme Court in the matter of **Beed District Central Coop. Bank Ltd. Vs. State of Maharashtra and**

others¹ and further in the matter of **Shin Satellite Public Co. Ltd. Vs. Jain Studios Ltd²** which is applicable in the present case and, therefore, he may be allowed to make a representation before respondent-Municipal Corporation highlighting the above stated statutory provision and judgement of the Supreme Court and the respondent may be directed to reconsider the impugned order dated 31.07.2010.

(2) Per contra, learned counsel appearing for the respondent would oppose the submission made by learned counsel for the petitioner.

(3) I have heard learned counsel for the parties and perused the impugned order with utmost circumspection.

(4) Be that as it may, the petitioner is at liberty to make a representation with additional material before the Municipal Corporation to reconsider the impugned order dated 31.07.2010 and to bring on their notice Section 11 of the Transfer of Property Act and relevant judgments of the Supreme Court within a period of three weeks from today. If such a representation is filed by the petitioner before the respondents, in that event the respondents shall reconsider the impugned order dated 31.07.2010 strictly in accordance with law after hearing the parties within a period of three months from the date of receipt of representation.

(5) For a period of three months, interim relief granted by this Court by order dated 28.10.2010 shall remain in force.

(6) With the aforesaid observation, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-

1 (2006) 8 SCC 514

2 (2006) 2 SCC 628