

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 153 of 2017

- Mahendra Kumar Moda S/o Shri Chhaganmal Moda, Aged About 55 Years, R/o Station Road, Raigarh, Tahsil & District Raigarh (Chhattisgarh)

---- Petitioner

Versus

1. Municipal Corporation, Raigarh Through: Its Commissioner, Municipal Corporation, Raigarh, (Chhattisgarh)
2. Mayor-in-Council, Municipal Corporation Raigarh, Tahsil & District Raigarh (Chhattisgarh)

---- Respondents

For Petitioner
For Respondents

Shri Sourabh Sharma, Advocate
Shri H. B. Agrawal, Senior Advocate with
Ms. Preeti Yadav, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

20/01/2017

1. Petitioner would assail the notice (Annexure-P-2), whereby he has been directed to vacate the tenanted premises within a period of 7 days.
2. Shri Sourabh Sharma, learned counsel for the petitioner, would submit that the petitioner was allotted the subject godown more than 30 years back and the petitioner has never defaulted in payment of rent, yet the Municipal

Corporation has issued the notice, which infact is an order directing him to vacate the premises within 7 days. He would submit that the order has been passed without giving any opportunity of hearing or breathing period to make alternative arrangement. He would further submit that the petitioner has submitted reply to the impugned notice/order on 03.12.2016, however, no decision has been taken nor the petitioner has been informed about any such decision, if already taken.

3. Shri H. B. Agrawal, learned Senior counsel appearing for the Municipal Corporation on advance notice, would draw attention of the Court to the letter under reference in the notice/order (Annexure-P-2), which would make it apparent that the petitioner was served similar notice more than 6 years back on 03.06.2011, but the petitioner did not respond. It is also putforth that the Corporation is in need of the premises for its own use, therefore, the petitioner should vacate the godown at the earliest.
4. Having heard learned counsel for the parties, in the considered view of this Court, ends of justice would be served if the petitioner is provided with the decision taken by the Mayor-in-Council on 04.11.2016 within a period of 10 days and thereafter, the Corporation shall take decision on the petitioner's reply (Annexure-P-3) after providing personal hearing to the petitioner within next 3 weeks.

5. For a period of 5 weeks from today, the petitioner shall not be evicted. It is made clear that this Court has not made any opinion on the merits of the case and if the Corporation needs the premises for its own use, it shall always remain open for the Corporation to proceed in the matter after the above stated period of 5 weeks. Depending upon the outcome on his representation, the petitioner would be at liberty to take recourse to the remedy available to him in law.
6. Accordingly, the writ petition is disposed of.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala