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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 297 of 2017**

- Smt. Sarita Patel W/o. Jhumuk Patel, Aged About 48 Years R/o. Ward No. 5, Seetla Para, Motipur, Rajnandgaon, District Rajnandgaon (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Government Of Chhattisgarh Town And Country Planning, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
2. The Commissioner, Municipal Corporation Rajnandgaon, District Rajnandgaon (Chhattisgarh)
3. The Collector, Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- Respondent

For Petitioner	Mr. Ashok Patil, Advocate
For Respondent /State	Mr. Shashank Thakur, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****15/2/2017**

1. Heard.
2. In the present petition, the petitioner is seeking compensation for illegal demolition of the construction raised by her on her own land. The Municipal Corporation has demolished the construction treating it to be unauthorised construction.
3. The construction may be on encroached land or it might not

have been constructed as per the Municipal Laws. However, if either of the two is proved, the Corporation may not be held liable to pay compensation to the petitioner.

4. The question as to whether the petitioner had the lawful title over the land and the superstructure build thereupon, is a question which needs adjudicated by jurisdictional civil Court.
5. Similarly, the nature of construction as to whether it is authorized or unauthorized being contrary to the Municipal Laws, is again to be determined on the basis of oral as well as documentary evidence.
6. In view of the law laid down by the Supreme Court in the matter of **Shalini Shyam Shetty Vs. Rajendra Shankar Patil, (2010) 8 SCC 329**, this Court find itself unable to exercise jurisdiction under Article 226 of the Constitution of India in this petition. The petitioner, if so advised, may prefer duly constituted suit before the jurisdictional civil Court.
7. The writ petition is accordingly disposed of.

Sd/-

Judge

(Prashant Kumar Mishra)