

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (C) No. 1749 of 2017**

Brahmanand Khemnani, S/o Sambhananad, aged about 55 years, R/o. Mahoba Bazar, Raipur, District Raipur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Urban Administration and Development, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur (C.G.)
2. Municipal Corporation, Raipur, through its Chief Municipal Officer, Municipal Corporation, Raipur, District Raipur (C.G.)
3. Chief Municipal Officer, Municipal Corporation, Raipur, District Raipur (C.G.)
4. Zone Commissioner, Zone No.7, Municipal Corporation, Raipur, District Raipur (C.G.)

---- Respondents

For Petitioner : Mr. Sunil Otvani, Advocate.
 For Respondent No.1 : Mr. Prasun Bhaduri, G.A.
 For Respondents No. 2 to 4 : Mr. H.B. Agrawal, Senior Advocate
 with Shri Pankaj Agrawal, Adv.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****05/07/2017**

(1) Learned counsel for the petitioner would submit that the petitioner has been directed to remove the encroachment from the passage of his shop whereas he has not made any encroachment and has also not raised any construction in the passage of his shop. He submits that no opportunity of hearing has been given before passing of the impugned order.

(2) On the other hand, counsel for respondents No. 2 to 4 would submit that the encroachment has been made by the petitioner in the passage of her shop.

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

(4) No opportunity has been given before passing of the impugned order, therefore, this petition deserves to be remitted back to the Commissioner, Municipal Corporation, Raipur for fresh consideration after affording due opportunity of hearing to the parties.

(5) Accordingly, the writ petition is allowed. Impugned order dated 03.06.2007 is set aside. the matter is remitted back to the Commissioner, Municipal Corporation, Raipur and in turn, the Commissioner, Municipal Corporation, Raipur shall decide the same after affording due opportunity of hearing to the petitioner and other side and pass reasoned order within a period of 10 days from the date of receipt of copy of this order.

(6) The parties will appear before the Commissioner on 10th July, 2017.

(7) Certified copy by tomorrow.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-