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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 153 of 2018**

1. Rakesh Trading Company, Through Proprietor Rakesh Agrawal, Son Of Janak Ram Agrawal, Grain Merchant, Aged About 35 Years, R/o Bajrang Nagar, Raipur, Tahsil And District Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, Urban Administration And Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh.
2. The Collector, Raipur, District Raipur, Chhattisgarh.
3. The Nagar Palika Nigam, Raipur, Through Commissioner, Nagar Palika Nigam, Raipur, District Raipur, Chhattisgarh.
4. Zone Commissioner, Zone No.7, Nagar Palika Nigam, Raipur, District Raipur, Chhattisgarh.

---- Respondent**WPC No. 65 of 2018**

1. Baban Pandey S/o Shri Jai Narayan Pandey Aged About 93 Years R/o Bajrang Nagar Raipur Tahsil And District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Urban Administration And Development Department Mahanadi Bhawan Mantralaya New Raipur Chhattisgarh.
2. The Collector, Raipur District Raipur Chhattisgarh.
3. The Nagar Palika Nigam , Raipur Through Commissioner Nagar Palika Nigam Raipur District Raipur Chhattisgarh.
4. Zone Commissioner , Zone No. 7 Nagar Palika Raipur District Raipur Chhattisgarh.

---- Respondent

WPC No. 78 of 2018

1. Parmanand Chandrawanshi Son Of Late Shri Bhagirathi Chandrawanshi, Aged About 83 Years R/o Amapara Chowk, Tatyapara Ward, Raipur, Tehsil And District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Raipur Municipal Corporation, Through Its Commissioner, Raipur, Chhattisgarh.

---- Respondent

WPC No. 80 of 2018

1. Shivnarayan S/o Shri Bawali Chhatan Aged About 57 Years R/o Bajrang Nagar Raipur Tahsil And District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Urban Administration And Development Department Mahanadi Bhawan Mantralaya New Raipur Chhattisgarh.
2. The Collector, Raipur District Raipur Chhattisgarh .
3. The Nagar Palika Nigam , Raipur Through Commissioner Nagar Palika Nigam Raipur District Raipur Chhattisgarh.
4. Zone Commissioner, Zone No. 7 , Nagar Palika Nigam Raipur District Raipur Chhattisgarh.

---- Respondent

WPC No. 107 of 2018

1. B.R. Sahu S/o Shri K.S. Sahu Aged About 73 Years Retired Government Employee, R/o Amapara Road, Bajrang Nagar, Durg Chowk Raipur, Tahsil And District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Urban Administration And Development Department, Mahanadi Bhawan, Mantralaya, New Raipur Chhattisgarh.
2. The Collector, Raipur, District Raipur Chhattisgarh.
3. The Nagar Palika Nigam, Raipur Through Commissioner, Nagar Palika Nigam Raipur, District Raipur Chhattisgarh.
4. Zone Commissioner, Zone No. 7 Nagar Palika Nigam Raipur, District Raipur Chhattisgarh.

---- Respondent**WPC No. 133 of 2018**

1. Tarun Kumar Savarkar S/o Shri Dukalu Rao Savarkar Aged About 46 Years R/o Bajrang Nagar Raipur Tahsil And District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh. Through The Secretary Urban Administration And Development Department Mahanadi Bhawan Mantralaya New Raipur Chhattisgarh.
2. The Collector Raipur District Raipur Chhattisgarh.
3. The Nagar Palika Nigam Raipur Through Commissioner Nagar Palika Nigam Raipur District Raipur Chhattisgarh.
4. Zone Commissioner Zone No. 7 Nagar Palika Nigam Raipur District Raipur Chhattisgarh.

---- Respondent**WPC No. 158 of 2018**

1. Dev Prakash Sharma S/o Late Shri Janardan Sharma, Aged About 35 Years R/o Bajrang Nagar, Tatya Para Ward No. 38, Raipur, Tahsil And District Raipur Chhattisgarh.
2. Shailesh Sharma S/o Late Shri Janardan Sharma, Aged About 30 Years R/o Bajrang Nagar, Tatya Para Ward No. 38, Raipur, Tahsil And District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Urban Administration And Development Department, Mahanadi Bhawan Mantralaya, New Raipur Chhattisgarh.
2. The Collector, Raipur, District Raipur Chhattisgarh.
3. The Nagar Palika Nigam, Raipur Through Commissioner, Nagar Palika Nigam Raipur, District Raipur Chhattisgarh.
4. Zone Commissioner, Zone No. 7 Nagar Palika Nigam Raipur, District Raipur Chhattisgarh.

---- Respondent

For respective Petitioners	Shri Manoj Kumar Dube and Shri Sunil Otwani, Advocates
For Respondent/State	Shri Anand Dadariya, Govt. Advocate
For Respondent/ Municipal Corporation	Shri H.B. Agrawal, Sr. Advocate with Shri Pankaj Agrawal & Ms. Preeti Yadav and Shri Saurabh Sharma, Advocates

Order On Board

By

Prashant Kumar Mishra, J.

23/10/2018

1. Respondent Municipal Corporation has initiated exercise to widen the road on which petitioners' land with superstructure on some part is fallen. The petitioners have, therefore, approached this Court seeking a direction to the respondents not to use their property for widening of road without acquisition and/or payment of compensation.
2. In **Govind Nankani v State of C.G. & Others** reported in **2017 (4) CGLJ 132** this Court held thus in paras 5 & 6 :

5. In the matter of Tarabai Vs. Indore Municipal Corporation, Indore, it has been held that setting back by legal fiction shall have the effect of vesting

that land in Corporation and such vesting does not depend on payment of compensation. In view of this, it cannot be held that until payment of compensation is made, the authorities are not competent to raise any construction for widening of road or for construction of drain. However, at the same time, every citizen whose land is included in the building line demarcated by the Corporation in accordance with Section 305 of the Act is entitled to receive reasonable compensation as provided under the proviso to Section 305 and under Section 306 of the Act, 1956, though sub-section (3) of Section 306 further provides that in assessing such compensation, regard shall be had to the benefits accruing to that owner from the development of the land belonging to him and affected by such street.

6. In view of the above position of law, while refusing to restrain the Corporation to widen the road or to construct the drain, it is directed that the respondent Corporation shall ascertain the exact area owned by the petitioner and shall thereafter determine the compensation to which the petitioner is entitled under Sections 305 & 306 of the Act, 1956 on an application submitted by the petitioner in this regard within a period of one month from today along with a certified copy of this order. The respondent Corporation shall thereafter consider and decide the issue regarding compensation in accordance with law within reasonable time and preferably within a period of six months thereafter.

3. In the cases at hand also, the respondent Corporation is proposing to use petitioners' land for widening of road, therefore, the law laid down by this Court in **Govind Nankani** (supra) would squarely apply and hence, all the writ petitions are disposed of with direction that the respondent Corporation shall ascertain the exact area owned by the petitioners by carrying out demarcation and shall thereafter determine the compensation to which the petitioners are entitled under Sections 305 & 306 of the Chhattisgarh Municipal Corporation Act, 1956 (*for short 'the Act, 1956'*) on the applications submitted by the respective petitioners in this regard.

4. Let the respondent Corporation carry out the demarcation within a period of two months from the date of production of certified copy of this order and inform the petitioners as to what area belonging to them has been used for widening/construction of road or drain. Thereafter, the respective petitioners shall move applications for seeking compensation under Sections 305 & 306 of the Act, 1956, which shall be considered and decided in accordance with the provisions contained in the Act, 1956 and the compensation payable to the petitioners shall be determined within next three months.
5. It is made clear that during the above proceedings the Corporation may undertake the exercise of widening of road.
6. In view of the above, all the writ petitions are disposed of. Interim order passed earlier stands vacated. No order as to costs.

Sd/-

Judge
Prashant Kumar Mishra

Gowri