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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1012 of 2018**

Rajendra Kumar Bervansh, S/o. Late Shri Kartik Ram, aged about 54 years,
R/o. Telibandha, Post Office Ravi Gram, Raipur, District – Raipur (C.G.)

---- Petitioner**Versus**

1. The State of Chhattisgarh, Through-Secretary, Urban Administration Department, Mahanadi Bhawan, Naya Raipur (C.G.)
2. Municipal Corporation, Through- Commissioner, Municipal Corporation, Nagar Nigam Head Office, Near Mahila Police Station, Raipur (C.G.)
3. Zonal Commissioner, Zone-3, Municipal Corporation, Nagar Nigam Head Office, Near Mahila Police Station, Raipur (C.G.)
4. Revenue Officer, Municipal Corporation, Nagar Nigam Head Office, Near Mahila Police Station, Raipur (C.G.)
5. Collector, Raipur, District- Raipur, (C.G.)
6. Tehsildar, Raipur, Tehsil and District- Raipur (C.G.)

---- Respondents**Writ Petition (C) No. 1010 of 2018**

Bhagirathi, S/o. Late Shri Kartik Ram, aged about 44 years, R/o. Telibandha,
Post Office Ravi Gram, Raipur, District Raipur (C.G.)

---- Petitioner**Versus**

1. The State of Chhattisgarh, Through-Secretary, Urban Administration Department, Mahanadi Bhawan, Naya Raipur (C.G.)
2. Municipal Corporation, Through- Commissioner, Municipal Corporation, Nagar Nigam Head Office, Near Mahila Police Station, Raipur (C.G.)
3. Zonal Commissioner, Zone-3, Municipal Corporation, Nagar Nigam Head Office, Near Mahila Police Station, Raipur (C.G.)
4. Revenue Officer, Municipal Corporation, Nagar Nigam Head Office, Near Mahila Police Station, Raipur (C.G.)

5. Collector, Raipur, District- Raipur, (C.G.)
6. Tehsildar, Raipur, Tehsil and District- Raipur (C.G.)

---- Respondents

Writ Petition (C) No. 1065 of 2018

Dulsiya Bai, W/o. Late Shri Kartik Ram, aged about 75 years, R/o. Telibandha Post Office Ravi Gram, Raipur, District – Raipur (C.G.)

---- Petitioner

Versus

1. The State of Chhattisgarh, Through-Secretary, Urban Administration Department, Mahanadi Bhawan, Naya Raipur (C.G.)
2. Municipal Corporation, Through- Commissioner, Municipal Corporation, Nagar Nigam Head Office, Near Mahila Police Station, Raipur (C.G.)
3. Zonal Commissioner, Zone-3, Municipal Corporation, Nagar Nigam Head Office, Near Mahila Police Station, Raipur (C.G.)
4. Revenue Officer, Municipal Corporation, Nagar Nigam Head Office, Near Mahila Police Station, Raipur (C.G.)
5. Collector, Raipur, District- Raipur, (C.G.)
6. Tehsildar, Raipur, Tehsil and District- Raipur (C.G.)

---- Respondents

For Petitioner : Shri Sourabh Dangi, Advocate.
 For Respondents No. 1, 5 & 6/State : Shri Ratan Pusty, Govt. Advocate.
 For Respondents No. 2 to 4 : Shri Anumeh Shrivastava, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Judgment On Board

17/05/2018

- (1) Since common question of law and fact is involved in this batch of writ petitions, they are heard together and are being decided by this common order.
- (2) The petitioners' land were acquired with mutual consent by the Municipal

Corporation for widening of road, which was duly recorded on record on 01.02.2009 and agreement was executed on 12.05.2009 between the petitioners and the Municipal Corporation for allotment of shops in the Commercial Complex. Thereafter, on 01.06.2009, the petitioners were allotted shops No. 13, 11 & 12, respectively and they were required to pay premium of Rs. 10,000/- and monthly rent of Rs.1,000/-.

(3) It is the case of the petitioners that in the order dated 1.6.2009, allotment of shops was mentioned but in fact possession of open vacant land was delivered to them. One civil suit was filed by petitioners' neighbour (complainant) – Kabir Sibbal before the jurisdictional Civil Court, which was dismissed, thereafter, he filed a writ petition before this Court being Writ Petition (C) No. 3584 of 2010, which was disposed of directing the Collector, Raipur to consider the representation of the petitioners strictly in accordance with law. Accordingly, the Collector, by its order dated 09.02.2018, concluded that rights of complainant - Kabir Sibbal are not being violated in carrying out construction by the petitioners on the land allotted to them.

(4) Now, this batch of writ petitions has been filed by the petitioners stating that petitioners are not being allowed to construct their shops on the land allotted to them by Municipal Corporation, which is violative of their rights as their land have already been acquired and, therefore, appropriate directions be issued to the Municipal Corporation, Raipur to allow them to make constructions on the land allotted to them.

(5) Learned counsel appearing for the petitioners would submit that their houses and their shops have already been given by the petitioners on demand made by the Municipal Corporation in the public interest i.e. widening of road but they are not being allowed to make construction on the land allotted to them, which is violative of

their fundamental rights enshrined under Articles 14 & 21 of the Constitution of India.

(6) Per contra, counsel for respondents No. 2 to 4 – Municipal Corporation would submit that the petitioners are the defaulters and not paid the premium as well as rent and they are raising construction on the land without any permission from the Municipal Corporation.

(7) Learned counsel for the State would submit that the Collector, by its order dated 9.2.2018 has already concluded the dispute holding that no rights of complainant Mr. Kabir Sibbal are being violated in carrying out construction by the petitioners on the land allotted to them as the land has been allotted to the petitioners under “Mukhyamantri Swavlamban Yojna”.

(8) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also went through the record with utmost circumspection.

(9) Indisputably, the petitioners' land and shops were acquired rather it was given graciously by the petitioners for widening of road in the public interest and in lieu thereof they were allotted shops as mentioned in the opening paragraphs of the judgment and according to the petitioners, in the order dated 1.6.2009, allotment of shops was mentioned but in fact possession of open vacant land was delivered to them and, therefore, the petitioners are entitled to construct the shops on the land allotted to them.

(10) In view of the foregoing discussion, I am of the opinion that the petitioners are entitled to construct their shops on the land allotted to them. So far as premium is

concerned, the petitioners could not deposit the premium, as according to them they were never noticed for deposit of premium. It was the responsibility of the Municipal Corporation to deliver the constructed shops but it was not constructed by the Municipal Corporation and the petitioners are constructing the shops on their own costs.

(11) Be that as it may, the petitioners are allowed to construct their shops on the land originally allotted to them by order dated 01.06.2009 subject to depositing of premium within a period of three weeks from today.

(12) With the aforesaid observations, the writ petitions stand finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

(Sanjay K. Agrawal)
Judge

D/-