

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2313 of 2018

- Tushar Kanti Ghosh S/o Late Hiralal Ghosh Aged About 68 Years
R/o Ward No.28, Lochan Nagar, Raigarh, District Raigarh,
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Urban
Administration and Development Department, Mahanadi Bhawan,
Mantralaya, New Raipur, Chhattisgarh
2. The Commissioner, Municipal Corporation, Raigarh, District
Raigarh, Chhattisgarh
3. The Collector, Raigarh, District Raigarh, Chhattisgarh
4. Balkishan Goyal S/o Murarilal Agrawal Aged About 58 Years R/o
Ward No.28, Lochan Nagar, Raigarh, District Raigarh,
Chhattisgarh

---- Respondents

For Petitioner	Shri J. A. Lohani, Advocate
For Respondent-State	Shri A. S. Kachhawaha, Addl. AG
For Respondent No.2	Shri Ashish Gupta, Advocate

Hon'ble Justice Mr. Prashant Kumar Mishra

Order On Board

21/08/2018

1. Petitioner is complaining of illegal construction by the respondent
No.4 contrary to the map sanctioned by the respondent No.2.
According to the petitioner, due to the illegal construction raised
by the respondent No.4, his easementary rights have been
affected.

2. It appears, the essence of the grievance and the prayer made in the writ petition is about claiming easementary right of light and air, which has probably been stopped due to the construction raised by the respondent No.4. For asserting such easementary right, the appropriate proceedings would lie before the jurisdictional Civil Court, where the prescription of easementary right would be considered on the basis of pleadings and evidence, both oral and documentary, led by the parties. The finding of prescription of easementary right cannot be recorded in writ proceedings.
3. For the above stated reasons, the writ petition is not maintainable. Let the petitioner work out his remedy before the jurisdictional Civil Court.

Sd/-

Prashant Kumar Mishra
Judge

Nirala