

## **HIGH COURT OF CHHATTISGARH, BILASPUR**

### **WPC No. 1552 of 2019**

Nasim Akhtar Khan S/o Late Shri Gyasuddin Khan Aged About 62 Years R/o Quarter No. 33, Sector 7/2a Type, Balco Nagar Korba, P.S. Balco Nagar, Tahsil And District Korba Chhattisgarh.

**---- Petitioner**

### **Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
2. State Of Chhattisgarh Through Its Secretary, Urban Administration And Development, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
3. Collector Korba, District Korba Chhattisgarh.
4. Municipal Corporation Korba Through Its Commissioner, District Korba Chhattisgarh.
5. Sarju Singh S/o Late Shri Mukhdev Singh Aged About 78 Years R/o House No. 37, M.I.G. 1, M.P. Nagar Extension Kusabadi, Tahsil And District Korba Chhattisgarh.

**---- Respondents**

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| For Petitioner        | : | Shri Surfaraj Khan, Advocate  |
| For Respondent/ State | : | Shri Avinash Singh, P. L.     |
| For Respondent No. 4  | : | Shri Pankaj Agrawal, Advocate |

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**Hon'ble Shri Justice Goutam Bhaduri**

### **Order on Board**

**01.05.2019**

Heard

1. The present petition is against the notice dated 12/04/2019 wherein the Municipal Corporation served a notice to the petitioner that he has constructed over and above the sanctioned map of his plot bearing house No. 49, M.I.G. 1, Korba and by the said notice he has been directed to remove the construction within 24 hours otherwise it shall be demolished.

2. Learned counsel for the petitioner submits that in the notice only 24 hours time has been given to remove the construction and the said order was passed without any hearing. He gave a reference of other writ petition and prays that the notice may be stayed.
3. Section 307 (5 ) of the Municipal Corporation Act, 1956 provides that in case a person is aggrieved about contravention of any provision of Act or by-laws of Municipal Corporation Act, then he may file a civil suit before the District Judge for grant of injunction.
4. In the instant case the dispute about the extra construction which have been made over and above the sanctioned land involves a necessary disputed question of facts, which has to be establish by evidence before the court of law. Since the notice dated 12/04/2019 only had given 24 hours time, it is observed that the petitioner if so aggrieved may file a civil suit as provided under Section 307 (5) of the Municipal Corporation Act before the District Judge within a further period of 15 days.
5. There shall be stay of the effect of the order/ notice for a period of 45 days.
6. With such observation the petition stands disposed of.

**Sd/-**  
**(Goutam Bhaduri)**  
**JUDGE**

Jyoti