

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1822 of 2019**

- Vijay Lal Jain S/o Late Shri Pukhraj Jain Aged About 76 Years Occupation - Business (Harsh Collection) Shop No. A - 90, Pandri Cloth Market M.G. Ward No. 25 Raipur Tehsil And District - Raipur Chhattisgarh. (As The Petitioner Is The Tenant Of Smt. Jhumki Bai Jain (Now Dead) The Impugned Notice Is Issued To Owner Jhumki Bai Jain (Now Dead) Instead Of Petitioner

---- 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 Raipur District Raipur Chhattisgarh
4. Municipal Corporation Raipur, Through Its Commissioner District Raipur Chhattisgarh

-----Respondents

For Petitioner	:	Shri Surfraj Khan, Advocate
For Respondents/State	:	Shri Aditya Bhardwaj, PL
For Respondents No.4	:	Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****17/05/2019**

1. Heard.
2. The present writ petition is filed against the issuance of notice dated 08.05.2019 to the petitioner by the Municipal Corporation, Raipur. It is contended that the

petitioner is the occupant of the shop of which the shop opening was initially inside the cloth market. Subsequently, with the passage of time one opening was also made towards the road, which was earlier a service road. It is stated that the said road became busy and therefore became a main road. It is contended that the petitioner has neither encroached upon any part of land nor has obstructed the path or road, however, the Municipal Corporation in a omnibus manner referring to an order passed in WP (PIL) No.12 of 2018 dated 03.05.2018 has stated that the second shutter which is opened towards the main road should be closed, otherwise the shops shall be sealed. He would further submit that no opportunity of hearing was given to the petitioner before such order and time bound notice has been served to comply with the notice Annexure P-1.

3. Perused the order dated 03.05.2018 passed in WP (PIL) 12 of 2018 which finds reference in notice Annexure P-1. In such order the Division Bench of this Court has directed that the encroachments in the Pandri Cloth Market, Raipur shall be identified and dealt with by the Corporation in accordance with law. Primary reading of the notice would show that the petitioner has not encroached the land but notice is served for opening of one more shutter towards the road. Therefore, the direction given in WP (PIL) 12 of 2018 may not be directly applicable for the reasons stated in the notice. The petitioner as appears has not been heard before issuance of such direction. Under the circumstances, it is directed that the petitioner in pursuance to the notice dated 08.05.2019 may file their respective representations/submissions within a period of thirty days

from today before the Municipal Corporation, Raipur, who will decide the same objectively taking into the spirit of the order passed in WP (PIL) No.12 of 2018 within a further period of 3 months from the date of representation after giving fair opportunity of hearing to the petitioners after hearing them afresh. Therefore, for the present, the notice dated 08.05.2019 shall not be acted upon till then. It is further directed that the petitioner shall not cause any encroachment over the subject area or shall not obstruct the way in any manner which may lead to obstruction of traffic.

4. With the aforesaid observations, the writ petition stands disposed of.

Sd/-

(Goutam Bhaduri)
Judge

Ashu