

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 368 of 2017***(Arising out of the order dated 12.04.2016 passed by the learned Single Judge in W.P.(C) No.1019 of 2015 and connected matters)*

1. Vashishtha Narayan Jha S/o Late Chethru Jha Aged About 75 Years R/o Near Bus Stand Bishrampur Police Station & Post Bishrampur Civil & Revenue District Surajpur Chhattisgarh.
2. Sudhir Kumar Jha, S/o Vashishtha Narayan Jha, Aged About 48 Years R/o Near Bus Stand Bishrampur Police Station and Post Bishrampur Civil and Revenue District Surajpur Chhattisgarh
--- **Appellants**

Versus

1. State of Chhattisgarh through Secretary Urban Administration Development Department Mahanadi Bhawan Mantralaya Capital Complex Naya Raipur District Raipur Chhattisgarh.
2. Director, Urban Administration and Development, Chhattisgarh Raipur District Raipur , Chhattisgarh
3. Joint Director, Urban Administration & Development Surguja Division Ambikapur District Surguja Chhattisgarh. District : Raipur, Chhattisgarh
4. Nagar Panchayat Bishampur, through its Chief Municipal Officer Nagar Panchayat Bishrampur District Surajpur Chhattisgarh.
5. The Chief Municipal Officer, Nagar Panchayat Bishrampur District Surajpur Chhattisgarh.
6. The Sub Divisional Officer Revenue Surajpur District Surajpur Chhattisgarh
7. The President , Nagar Panchayat Bishrampur District Surajpur Chhattisgarh.
8. Collector, Surajpur District Surajpur Chhattisgarh. --- **Respondents**

Presence:

For the Petitioner : Mr. Manoj Paranjpe, Advocate

For the State : Mr. Gagan Tiwari, Panel Lawyer

For respondents No.4 & 5 : Mr. Prafull Bharat, Advocate

Hon'ble Shri Justice P.R. Ramachandra Menon, Chief Justice &

Hon'ble Shri Justice Goutam Bhaduri, Judge

Judgment on Board

Per P.R. Ramachandra Menon, C.J.,

17.06.2019

1. The correctness and sustainability of the common verdict passed by the learned Single Judge in W.P(C).No1019 of 2015 and connected cases is under challenge at the instance of the writ petitioners stating that the verdict passed stands detrimental to their rights and interests, virtually being contrary to the principles of 'legitimate expectation' and 'promissory estoppel'.
2. Heard Mr. Manoj Paranjpe, learned counsel appearing for the petitioner; Mr. Gagan Tiwari, Panel Lawyer, representing the State and Mr. Prafull Bharat learned standing counsel representing respondents 4 & 5.
3. The gist of the case is that the appellants/writ petitioners were conducting some business in the shop rooms constructed in the land belonging to the 4th respondent – Local Authority. While so, they were required to effect vacant surrender so as to construct a Bus Stand by the Local Authority. According to the appellants, they surrendered the property yielding to the said requirement on the promise, assurance and undertaking that they will be given equal space in the nearby area, after constructing the Bus-Stand. After effecting the surrender, the Bus-Stand was constructed and some shop rooms were also constructed. The Local Authority took a decision to rehabilitate the persons like the appellants by allotting the

shop rooms. It is stated that the Local Authority had allotted as many as 11 shop rooms and proceedings were caused to be filed before the Government in terms of the relevant rules so as to accommodate the persons who were evicted from the premises. In respect of the remaining 5 rooms, allotment was not made and were sought to be auctioned and a notification was issued in this regard. This made the appellants to approach this Court by filing the writ petition challenging the aforesaid proceedings. It is contended that the Nagar Panchayat, having already passed a resolution to allot the shop rooms to the persons from whom vacant surrender had already been obtained, the course now sought to be pursued for auctioning the shop rooms was contrary to the principles of 'legitimate expectation' as also 'promissory estoppel' and hence the appeal. It is stated that the issue is pending consideration before the Government and hence interference of this Court is warranted.

4. Learned counsel for the State submits that that there is no vested right for the appellants to have the shop rooms allotted in their favour or to be rehabilitated. The said submission is supported by the learned standing counsel representing the Local Authority as well, pointing out that the shop rooms virtually were constructed by the appellants after encroaching into the property belonging to the Municipality and as such they are not entitled to any relief. The fact that the property belongs to the Local authority; that the appellants were encroachers and that the construction was made by the appellants themselves stand virtually conceded in the pleadings and proceedings.
5. Learned standing counsel representing the Local Authority submits that, if at all any property has to be conveyed as per the relevant regulations and bye-laws, it has to be on the basis of 'auction' and never on the basis of any understanding. This being the question, the

resolution passed earlier by the Nagar Panchayat to cause rehabilitation of the appellants, who are admittedly encroachers, was contrary to the relevant rules and bye-laws; which by itself will not be of any help to the appellants. We find considerable force in such submissions.

6. In view of the undisputed fact that the appellants were encroachers into the property belonging to the Local authority and further since the decision taken earlier by the Municipality without having regard to relevant rules and regulations/norms as to the allotment of the shop rooms which stands already corrected by the Local Authority by taking a revised decision, in conformity with law, there cannot be any interference with regard to the course pursued by the learned single judge. The law of 'promissory estoppel' does not come to the picture at all. That apart, to entertain the claim raised with reference to the 'legitimate expectation', it is to be established that the 'expectation' was legitimate. Admittedly, the appellants were encroachers who had entered into the land belonging to the Local authority and effected construction by themselves. As such, under no circumstances, could they expect legitimately that they would be permitted to continue or be rehabilitated, if any eviction takes place. In such circumstances, the said ground also does not hold any water.

7. Above all, as noted by the learned Single Judge, the proceedings were caused to be challenged after inordinate delay of 470 days. It has been observed by the learned Single Judge that the writ petitioners were not entitled to get any relief in the said circumstances. The issue having become stale, it was never liable to be entertained in view of the law declared by the Supreme Court on the point as reported in ***AIR 1970 SC 470 Rabindra Nath Bose v. Union of India*** holding that the power and jurisdiction of the Court cannot be extended under such circumstance in respect of the cause

pursued by the persons who were taking rest on arm chair. The appeal is devoid of any merit and is liable to be dismissed.

8. As stated by learned counsel for the appellants and further as noted by the Registry, there is delay of 471 days in filing the instant appeal as well; which is not satisfactorily explained.
9. For the foregoing reasons, the appeal stands dismissed both on the ground of delay as well as on merits.

Sd/-
(P. R. Ramachandra Menon)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge