

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 624 of 2020**

Sarvamangla Buildcon Through Partner Vimal Agrawal, S/o Shri Ramsingh Agrawal, Aged About 36 Years, R/o Of 107 Transport Nagar, Tahsil And Police Station Korba, District- Korba, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through- The Secretary, Department Of Revenue, Mantralaya, Raipur, Chhattisgarh
2. State Of Chhattisgarh Through Secretary, Department Of Urban Administration And Development, Govt. Of Chhattisgarh, Mahanadi Bhawan, Naya Raipur, Chhattisgarh
3. The Sub Divisional Officer (Revenue), Korba, District Korba, Chhattisgarh
4. The Collector Korba, District- Korba, Chhattisgarh
5. State Of Chhattisgarh Through Office Of Director Town And Country Planning Korba, District- Korba, Chhattisgarh
6. The Tahsildar Korba, Tahsil And District Korba, Chhattisgarh
7. State Of Chhattisgarh Through Police Station In Charge, City Kotwali, Korba, Tahsil And District Korba, Chhattisgarh
8. Municipal Corporation Korba Through Municipal Commissioner, Korba, Head Office, Saket Bhawan, Korba, Tehsil And District- Korba, Chhattisgarh
9. Pradeep Narayan Singh R/o Lalluram Colony, Korba, Tahsil And District Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Rajat Agrawal, Advocate
For State/Res. 1 to 7	:	Mr. Ayaz Naved, GA
For Res. No.8	:	Mr. B. D. Guru with Mr. P. Acharya, Advocates

Hon'ble Shri Justice P. Sam Koshy
Order on Board

13/02/2020

1. The challenge in the present writ petition is to the order Annexure P-1 dated 30.01.2020.
2. The sole ground of challenge in the present writ petition is that the Tahsildar has already initiated a proceeding in respect of the alleged illegal construction under the provisions of Land Revenue Code and said enquiry is in the course of finalization and therefore the authorities of the Municipal Corporation should not have initiated another proceedings at this juncture.
3. Contention of the petitioner is that the impugned notice now issued by the Municipal Corporation is with malafide intentions and object behind is to stall the construction work of the petitioner and to delay the project. He further submits that the delay caused may have an adverse impact particularly in the light of the RERA Act which has now been enacted by the Government.
4. Perusal of record would show that the impugned notice Annexure P-1 is nothing but calling upon the petitioner to explain as to why the proceedings should not be drawn under Section 302 (2) of the Municipal Corporation Act on the allegation of carrying out illegal construction without prior permission, sanction and approval from the authorities in the Corporation.
5. Contents of the Annexure P-1 itself would clearly reveal that proceedings drawn in the present case is one under the Municipal Corporation Act and one which has been initiated by the Tahsildar is under a different provision of law altogether. There is no express bar provided under the Municipal Corporation Act or under the land

Revenue Code from the authorities concerned initiating simultaneous proceedings in respect of the same subject matter.

6. Moreover, what has to be seen is that the notice Annexure P-1 is one relating to the allegation of the illegal construction being made by the petitioner, the same has been issued invoking the provisions of Section 302 of the Municipal Corporation Act. Once, when the notice under challenge in the instant case has been issued under the powers conferred upon the authorities under the Municipal Corporation, the same cannot be held to be in any manner bad, arbitrary or contrary to the law. Unless there is an express bar which petitioner has not been able to establish.
7. Moreover, the petitioner during the course of the arguments submits he has already entered appearance and has submitted his reply before the concerned authority on 03.02.2020.
8. Given the fact that petitioner has already appeared before the authority and submitted his reply, this all the more forces this Court not to interfere with the impugned notice at this juncture leaving it for the authorities to take a decision on the reply so submitted by the petitioner.
9. It is expected that authorities concerned shall consider these contentions of the petitioner on its own merits in accordance with law at the earliest without unnecessary delay.

Sd/-
(P. Sam Koshy)
Judge