

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPPIL No. 68 of 2020**

Govinda Burman S/o Shri Arjun Prasad Burman, Aged About 32 Years, R/o Sangam Square, Charaoda (BMY), Ward No. 19, Bhilai, Charoda, Durg District -Durg Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through The Secretary, Urban Administration and Development, Mahanadi Bhawan, Mantralay, Nava Raipur, Atal Nagar, Raipur, Chhattisgarh.
2. Director of Town and Country Planning, Through The Director, Head Office at Indiravati Bhawan, Block No.4, 3rd Floor, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh.
3. The Collector Raipur, District Raipur Chhattisgarh.
4. The Municipal Corporation Raipur, Through Its Commissioner, Municipal Corporation Raipur, District Raipur Chhattisgarh.

-----Respondents

For Petitioner	: Shri Ashish Surana, Advocate.
For Respondent Nos.1 to 3/State	: Shri Vikram Sharma, Dy GA.
For Respondent No.4/Municipal Corporation	: Shri H.B. Agrwal, Senior Advocate with Shri Pankaj Agrawal, Advocate

Hon'ble Shri PR Ramachandra Menon, Chief Justice &**Hon'ble Shri Justice Parth Prateem Sahu****Judgment on Board****Per PR Ramachandra Menon, CJ****17.08.2020**

1. The present petition has been preferred as 'Public Interest Litigation' by the petitioner with the following prayers :-

“10.1. That, the Hon'ble Court may kindly be pleased to direct the respondents to take all the steps for removal of the encroachment, unauthorized/excess illegal construction contrary to sanction the plan immediately including the unauthorized construction at public place like Bus Stand etc.

10.2 That, this Hon'ble Court may kindly be pleased to direct the respondent to ensure the implantation of the development and zonal plan to the fullest and no development contrary or violation to development plan be permitted.

10.3 That, this Hon'ble court may kindly be pleased to direct the respondent to establish the committee consisting of such number of the officers of the State for monitoring the timely action on the unauthorized, illegal construction, encroachment.

10.3 That, this Hon'ble court may kindly be pleased to direct the respondents not to regularized or compound any illegal or unauthorized construction made in violation of the sanctioned plan or without permission.

10.5 Any other relief, including the cost of this petition, as it appears to be fit and appropriate to this Hon'ble Court.”

2. Heard Shri Ashish Surana, learned counsel for the petitioner, Shri Vikram Sharma, learned Deputy Government Advocate for respondent Nos.1, 2 & 3/State & Shri H.B. Agrawal, Senior Advocate for the 4th respondent/Municipal Corporation.
3. When the matter came-up for consideration before this Court on the last occasion, it was brought to the notice of this Court that the challenge raised by the petitioner as to the encroachment of Government Land/Municipal Corporation Land and the unauthorized construction being made by the parties concerned, was not being acted upon by the respondents concerned by taking appropriate steps. Reference was also made to Annexure P/3 judgment dated 02.05.2013, where a specific finding has been rendered as to the outcome of the civil suit culminating in the judgment rendered by this Court in the Second Appeal Nos.10/2009 &

73/2009, which relates to the 'Bus-Stand' and the unauthorized construction being made. Since it was noted that the parties, who have done the alleged encroachment, have not been impleaded in the party array, we observed that it was open for the petitioner to move the authorities concerned by the filing a representation. Time was sought for to get instructions and toady, the learned counsel for the petitioner submits that, insofar as the issue relating to the Bus-Stand is concerned, it has attained finality as discernible from Annexure P/3 judgment, which is a common verdict passed on 02.05.2013 in SA Nos.10/2009 & 73/2009. Specific reference is made to the Paragraph Nos.3 & 33 which are extracted below for convenience of reference :-

“3. Plaintiff Mangilal Pagariya Builders and Contractors preferred a suit *inter-alia* claiming decree for declaration that the entire construction of new bus-stand to be legal and in accordance with the sanctioned building plan; for issuance of permanent injunction restraining the defendants from demolishing any part of the building and to restrain them from disturbing the plaintiff with regard to property/salable area granted to the plaintiff from being transferred/alienated to any other person.

33. Now if we again come to the documentary evidence, the authority under the Adhiniyam 2002 has clearly concluded in Ex.D-24 that the regularized of unauthorized construction is not in public interest. Ex. D-25 and D-26, report by Town Planner of Municipal Corporation, Raipur has clearly mentioned the excess unauthorized

construction on each of the floor and the block. In this respect, it is clearly mentioned that additional blocks have been constructed and several notices were issued to the erstwhile MPSRTC for raising unauthorized construction in excess/violation of the sanctioned plan. The plaintiff has neither submitted any document by which these notices have been replied nor produced any other evidence to demonstrate by comparing the areas sanctioned for construction block-wise and floor-wise and the area actually constructed so as to come clean and prove its case that no unauthorized/excess construction is made by the plaintiff.”

4. The learned counsel submits that said issue has become final and in the said circumstance, no further inquiry does require to be made in relation to the said grievance and that the petitioner only wants to see that Annexure P/3 judgment is put into effect. The learned counsel submits that the petitioner is ready to prefer a representation referring to these aspects, before the 4th respondent/Municipal Corporation and the prayer is to direct the said respondent to have it considered and finalized within a time frame. The learned counsel further submits with regard to the other reliefs sought for, that the petitioner would file a separate representation before the very same respondent and that it may be directed to be considered and finalized within a reasonable time.
5. Shri H.B. Agrwal, the learned Senior Counsel for the respondent/Municipal Corporation submits that, after passing Annexure P/3 judgment in second appeal, the Municipal Corporation has issued notices to the parties

concerned, as disclosed from the materials produced by the petitioner himself ie (Page Nos.122 to 125 of the petition). The learned Senior Counsel submits that the proceedings will be finalized with reference to the issue related to Annexure P/3 verdict passed by this Court within the shortest possible time. Similarly, with regard to the other grievances, if a representation is filed by the petitioner, the same will also be looked into and finalized in accordance with law.

6. In the above circumstances, we do not find it necessary to go into the merits of the case, insofar as the issue covered by Annexure P/3 judgment is concerned. If the petitioner files a representation for further steps before the 4th respondent/Municipal Corporation in this regard; which shall be done within two weeks, it shall be considered and further steps shall be pursued and finalized by the said respondent immediately.
7. Similarly, with regard to the other grievances projected by the petitioner, it is open for him to file a separate representation, giving the particulars of the encroachers and also such other details, within 'one month' before the 4th respondent; upon which the same shall also be acted upon by the 4th respondent/Municipal Corporation and appropriate steps/order shall be passed after hearing the petitioner and also the parties against whom the insinuation is made by the petitioner. This shall be done as expeditiously as possible, at any rate within 'three months' from the date of receipt of this copy of this judgment.
8. The writ petition stands disposed of accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge