

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 2318 of 2020**

Prakash Kedia S/o Late Abir Chand Kedia Aged About 62 Years R/o 601, B Block Metro Heights, Telibandha, Raipur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Director Town And Country Planning, Directorate, Town And Country Planning, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
3. Joint Director Town And Country Planning, Regional Office, R. D. A. Building, Shastri Chowk, Raipur District Raipur Chhattisgarh
4. Abhishek Jain S/o Late Shri Jagdish Jain Aged About 40 Years
5. Smt. Hansa Jain W/o Late Shri Jagdish Jain Aged About 62 Years

Respondents No. 4 & 5 are R/o Ahihant Niwas, Fawara Chowk, Sattibazar, Raipur District Raipur Chhattisgarh

6. Fhalendra Chandrakar S/o Late Khuman Singh Chandrakar Aged About 55 Years
7. Bhishma Chandrakar S/o Late Khuman Singh Chandrakar Aged About 61 Years
8. Jitendra Chandrakar S/o Late Khuman Singh Chandrakar Aged About 53 Years

Respondents No. 6 to 8 are R/o Near Shri Ram Tower, Tatibandh, Raipur Tehsil And District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Ashish Surana, Advocate
For State	:	Mr. Siddharth Dubey, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****09/10/2020**

1. The petitioner herein challenges and order dated 19.12.2019 passed by the Joint Director, Nagar Tatha Gram Nivesh, Regional Office, Raipur.

2. The grievance of the petitioner seems to be that the complaint that the petitioners have made in respect of the alleged illegal development of plot lying adjacent to the petitioner's property being carried on by the respondents No.4 to 8.
3. The contention of the petitioner is that the development activities have been begun without there being any application seeking permission to develop the property, nor is there any development plan submitted before the authorities and the private respondents have started the development activities. The further grievance of the petitioner is that there is an apprehension that the illegal development, which the petitioner has started can have an adverse impact upon the petitioner's right over the road that situates in front of the property of the petitioner, which is an exclusively private property of the petitioner shown as road for the petitioner's use. The further contention of the petitioner is that in the complaint the petitioner had also referred to the illegal development being carried out by the respondents No.6 to 8. However, in the impugned order there is no reference of the alleged illegality being committed by the respondents No.6 to 8, which ought to have been dealt with and discussed. Moreover, the observations made by the authorities concerned in the said impugned order is also contrary to the provisions of the Nagar Tatha Gram Nivesh Adhiniyam, 1973.
4. All said and done, since the nature of dispute raised by the petitioner are all disputed questions of facts and which needs to be dealt with by the competent authority under the Act or in a proceeding before

the Civil Court, where the matter can be threshed out by leading appropriate evidence on either side.

5. However, since the impugned order is silent so far as the alleged illegality of the respondents No.6 to 8 is concerned and moreover the impugned order also is silent to the extent as to whether the respondents had submitted any development plan or any application seeking permission for development of the property this Court is of the opinion that the matter is one which needs to be dealt with by the Joint Director who has passed the impugned order Annexure P/1. Accordingly, the matter stands remitted back to the Joint Director, Nagar Tatha Gram Nivesh, Regional Office, Raipur to take into consideration the complaint of the petitioner and to decide it afresh purely in accordance with the provisions of the Nagar Tatha Gram Nivesh Adhiniyam, 1973.
6. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge