

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2400 of 2020**

Devendra Kumar Janghel S/o Late Jethu Ram, Aged About 49 Years,
R/o M. I. G.-I/ 737, Hudco, Bhilai, Tahsil And District Durg, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Government Of Chhattisgarh, Revenue Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur, Chhattisgarh
2. Municipal Corporation Bhilai Through Its Commissioner Municipal Corporation Bhilai, District Durg, Chhattisgarh
3. Collector, Durg, District Durg, Chhattisgarh
4. Superintendent Of Police, Durg, District Durg, Chhattisgarh
5. President, Ravindra Niketan, Kalibadi, Hudco, Bhilai, Tahsil And District Durg, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Siddharth Rathod, Advocate
For Respondents 1, 3 & 4:	:	Shri S. Dubey, Dy. Govt. Advocate
For Respondent no.2	:	Shri H. B. Agrawal, Sr. Advocate along with Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****16.10.2020**

1. The present writ petition has been filed against the alleged illegal construction and encroachment upon public place by the respondent no.5.
2. According to the petitioner, the respondent no.5, in the year 2013, had moved an application to the respondents seeking permission for

construction of a temporary shed for a temporary period for temporary use for the celebration of Durga Pooja festival with an undertaking that immediately after the festival gets completed, the temporary shed would be removed. According to the petitioner, subsequent to the Durga Pooja of 2013, the respondent no.5 had not removed the said structure, rather they are expanding the same and have now further expanded into a marriage hall on the adjoining land and is being given for commercial purposes with illegal rooms also having been constructed in the said land and the adjoining open place. In addition, it is also submitted that the said building is often used by antisocial elements for major period of the year when there is no festive season as such. Learned counsel for the petitioner submits that in the year 2015 a writ petition was filed before this Court i.e. WPC No. 970/2014 and after hearing the parties, this Court had made the following observations:

“The question as to whether respondent no.9 is in lawful possession of the land and the construction raised by it, is in accordance with law or not, is a question of fact to be determined by the concerned authorities after examining the entire facts situation of the case, therefore, instead of keeping this petition pending, this Court deems it appropriate to direct the Collector, Durg and Municipal Corporation, Durg to decide petitioner’s representation at the earliest, preferably within a period of six months from the date of submission of representation. The representation shall be decided after giving opportunity of hearing to the petitioner as well as to respondent no.9. The representation

shall be decided by a speaking order after making due enquiry of the subject matter of the dispute.”

According to the petitioner, till date no concrete step has been taken by the respondents in any manner and the illegal structure and the menace are still continuing.

3. Learned senior counsel appearing for the Municipal Corporation, at this juncture, submits that let the writ petition be disposed of permitting the Municipal Corporation, Bhilai to take an appropriate action in accordance with the provisions of law after hearing all the interested parties to the dispute.
4. Same is the stand taken by the State counsel appearing for the respondents 1, 3 & 4.
5. Given the said submissions by the learned counsel for the parties, this writ petition need not be kept pending and the same is disposed of at the admission stage directing the respondents particularly the Municipal Corporation, Bhilai to take an appropriate step in this regard in accordance with the provisions of law at the earliest, preferably within 3 months from the date of receipt of copy of this order. The petitioner also would be at liberty to file a detailed representation both to the respondents 2 & 3 in this regard within a period of 15 days from today.
6. The Municipal Corporation, Bhilai also is directed to ensure an inspection of the site and verify whether any illegal permanent construction is being raised at the site or not. In case it is found to be

illegal, appropriate restraint order be passed in this regard at the earliest.

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

**Sd/-
P. Sam Koshy
Judge**

Khatai