

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 63 of 2021**

1. Vishnu Prasad Sahu S/o Late Kripa Ram Sahu, Aged About 60 Years R/o House No. C 231/B Vallabh Nagar, Sector 6, Ring Road No. 1, Raipur, District Raipur Chhattisgarh
2. Navin Sahu S/o Late Kripa Ram Sahu Aged About 45 Years R/o Shau Complex, Near Mova Overbridge, Raipur, District Raipur Chhattisgarh
3. Smt. Sonia Sahu W/o Late Jitendra Sahu Aged About 45 Years R/o Shau Complex, Near Mova Overbridge, Raipur, District Raipur Chhattisgarh

---- Petitioners**Versus**

1. Municipal Corporation Raipur Through The Commissioner, Municipal Corporation Raipur, Raipur District Raipur Chhattisgarh
2. The Commissioner, Municipal Corporation Raipur, Raipur District Raipur Chhattisgarh
3. Zone Commissioner, Zone No. 4, Municipal Corporation Raipur, Raipur District Raipur Chhattisgarh

---- Respondents

For Petitioners : Shri Ashish Surana, Advocate

For Respondents : Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order****08/01/2021**

1. Heard.
2. Challenge in this petition is to the notice dated 06.01.2021 (Annexure P-1), whereby the petitioners have been asked to vacate certain shops which were allotted to them and have been asked to hand over the vacant possession and it

is recorded that in case the compliance is not made within three days then the petitioners would be evicted.

3. Learned counsel for the petitioners would submit that the petitioners were initially allottee/licensee of Jawahar Bazar and when the Jawahar Bazar was shifted they were shifted to Shastri Bazar as vegetable vendors. Thereafter, as per agreement Annexure P-2, the plots which were given by way of rehabilitation, the construction was carried out by the allottee itself, which would be evident from the Annexure P-4 and superstructure were raised. He would further submit that thereafter the petitioners are in possession of the said plots after the construction of the shops and recently the notices have been issued which purport that the Municipal wants to construct a commercial complex wherein the plot exist, therefore, the petitioners are required to vacate the shops within three days. He would further submit that such notice is illegal which cannot be acted upon and no opportunity of hearing is also been given and the vacation of shop is not sought for any public purpose.
4. Per contra, learned counsel for the respondents would submit that the petitioners are the licensee and they have not paid the license fees, therefore, they are required to be evicted.
5. I have heard learned counsel for the parties and perused the documents.
6. Perusal of notice Annexure P-1 dated 06.01.2021 would show that the petitioners have been asked to vacate the shop primarily on the ground that certain commercial complex is to be raised in those places, therefore, the 12 shops which were allotted they are required to be vacated. The arrears of payment of license fees has not been made a ground for eviction. The

petitioners during the course of submission would submit that within a period of one week they would deposit the entire license fees, if any outstanding remains. In any case, the Municipal Corporation, cannot be allowed to get certain allotted plots/shops vacated by force. The allotment even if are canceled are required to be got vacated as per law. The forceful dispossession otherwise than in due course of law cannot be allowed. Consequently, the impugned notice dated 06.01.2021 which purport that forceful dispossession would be carried out, cannot be allowed to sustain. Therefore, the part of the notice dated 06.01.2021 that the petitioners should be forcefully dispossessed cannot be acted upon. Consequently, the petitioners would be given a hearing against the notice dated 06.01.2021 and after due hearing any order may be passed and the dispossession of the petitioners from the allotted shops shall not be made otherwise than in due course of law.

7. With the aforesaid observation, the writ petition stands disposed of.
8. Certified copy today.

Sd/-

Goutam Bhaduri
Judge

Ashu