

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 136 of 2021

1. Sanjay Kumar Durgha S/o Late Govindram Durgha Aged About 50 Years R/o C-1, Sector-1, Avanti Vihar, Raipur, District Raipur , Chhattisgarh
2. Pawan Kumar Durgha S/o Late Govindram Durgha Aged About 50 Years R/o C-1, Sector-1, Avanti Vihar, Raipur, District Raipur (Chhattisgarh).
3. Vishnu Prasad Gupta S/o Late Thakur Ram Gupta Aged About 72 Years R/o Opposite Swastik Bakrey, Baijnath Para, Raipur, District Raipur (Chhattisgarh).
4. Vijay Kumar Khemani S/o Late Prabhamalkhemani Aged About 44 Years R/o In front of Shiv Mandir, Lane No. 7, Telibandha, Raipur, District Raipur (Chhattisgarh).
5. Kamal Kumar Khemani S/o Late Prabhamal Khemani Aged About 50 Years R/o Infront of Shiv Mandir, Lane No. 7, Telibandha, Raipur, District Raipur (Chhattisgarh).
6. Hemant Kumar Nagdev S/o Late Mohan Lal Nagdev Aged About 70 Years R/o Vaishali Nagar, Bhilai, District- Durg (Chhattisgarh).
7. Harish Kumar Nagdev S/o Late Mohan Lal Nagdev Aged About 51 Years R/o Smriti Bhavan, 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, District Raipur (Chhattisgarh),
3. Zone Commissioner Zone No. 4, Municipal Corporation Raipur, Raipur, District Raipur (Chhattisgarh).

--- Respondents

For the Petitioners	:	Mr. Ashish Surana, Advocate
For the Respondents	:	Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

12.01.2021

1. Challenge in this writ petition is to the notice dated 06.01.2021 (Annexure P-1) whereby the petitioners have been directed to vacate the shops which are in their hold at Municipal Corporation, Raipur,

which falls within the market area. It is contended that the petitioners are the purchasers of the superstructure from the original allottee of the Municipal Corporation and their names were mutated in the records of the Municipal Corporation, however, in order to construct a commercial superstructure, the petitioners have been asked to vacate the shops so that the construction can be carried out. He would submit that the petitioners are in possession of the shops after they purchased the same from the original allottee and they cannot be forced to vacate the same otherwise than in due course of law.

2. Learned counsel for the respondents would submit that the petitioners have not been allotted the shop and they are required to be evicted.
3. Perusal of the notice dated 06.01.2021 (Annexure P-1) 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. In any case, the tenure of notice would show that vacation is sought for the reason that a commercial complex is to be raised. The need being so, petitioners cannot be asked to vacate the shop by force otherwise than in due course of law. Therefore the part of the notice dated 06.01.2021 (Annexure P-1) wherein the petitioners have been asked to be forcefully dispossessed cannot be acted upon. Consequently, the petitioners would be given a hearing against notice dated 06.01.2021 and after due hearing any order may be passed and dispossession of the petitioners from the superstructure occupied as of now shall not be carried out otherwise than in due course of law.
4. With the aforesaid observation, the petition stands disposed of.

Sd/-
GOUTAM BHADURI
JUDGE