

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3434 of 2021**

Smt. Chandralata Devi Soni W/o Shri Vinod Kumar Soni, Aged About 64 Years R/o House No. 76, IRCC Colony, Transport Nagar, Korba, District Korba Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Urban And Rural Development, Mahanadi Bhawan Mantralaya, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh
2. Municipal Corporation, Korba, Through Its Commissioner, Municipal Corporation, Korba Chhattisgarh
3. Estate Officer, Municipal Corporation, Korba Chhattisgarh

---- Respondents

For petitioner- Shri Malay Shrivastava, Advocate.

For Respondent/State – Shri Ashish Tiwari, G.A.

For respondents No.2 & 3 – Shri B.D. Guru, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order**

25/08/2021

Heard.

1. Learned counsel for the petitioner submits that a shop bearing number 21 at IDSMT Ghanta Ghar Complex was allotted to one Kamaldeep Kaur by the Municipal Corporation. The allottee Kamaldeep Kaur transferred the shop in favour of the petitioner and accordingly in 2018 a letter was also sent to transfer the shop in the name of the petitioner by the original allottee Kamaldeep Kaur. It is contended that on 11/06/2021 a general notice of transfer inviting objection was issued by the Municipal Corporation which was published in the news paper, despite the fact no objection has been made the lease is not being transferred in favour of the petitioner. Learned counsel would submit that as per section 106 of the Transfer of Property Act, 1882 the lease is required to be transferred in favour of the petitioner. He would submit that the application

though has been filed but has not been considered by the Municipal Corporation, therefore suitable direction may be issued.

2. Perusal of the prayer of the writ petition would show that the prayer has been made to give a direction to the Municipal Corporation to transfer the lease in favour of the petitioner. The provisions of section 106 of the Transfer of Property Act, 1882 how it is applicable in the given facts of this case I am unable to understand. In any case, what are the conditions of the original allotment and why it is on hold cannot be adjudicated by this Court in a writ petition as it may require detail enquiry and reasons including the conditions of original initial allotment and it may require evidence to clarify the disputed facts. Therefore, the relief which has been claimed by the petitioner that the Municipal Corporation be directed to execute the lease in his favour cannot be ordered in exercise of power under Article 226 of the Constitution of India.

3. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE