

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3624 of 2021

- Sourabh Soni S/o Radhe Krishna Soni Aged About 48 Years R/o I-103, Ashoka Heights, Mova Raipur , District Raipur Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Collector Raipur , District Raipur Chhattisgarh.
2. Director Town And Country Planning RDA Building, Shashtri Chowk , Raipur Chhattisgarh.
3. Joint Director Town And Country Planning , RDA Building , Shashtri Chowk , Raipur Chhattisgarh.
4. Sub Divisional Officer (Revenue) District Raipur Chhattisgarh.

---- **Respondents**

For Petitioner : Shri Himanshu Sinha, Advocate

For Respondents/ State : Shri Ashish Tiwari, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

08.09.2021

Heard

1. Learned counsel for the petitioner would submit that the construction permission was granted to him on 17.05.2019 by the Town and Country Planning under *C.G. Nagar Tatha Gram Nivesh Adhiniyam, 1973* (for short '*Adhiniyam, 1973*'). He further submits that after construction a notice has been served to the petitioner on 22.07.2021 which purports that certain illegal construction has been raised contrary to the sanction map and permission granted. He would further submit that as per Section 37 (3) of the *Adhiniyam, 1973* in case a notice is served and the person aggrieved by the notice within 15 days of the receipt of the notice and in the manner prescribed, apply before the Director for permission for retention on the land of any building or works to which the notice relates during the time, the

application is disposed of, the notice shall stand withdrawn. He further submits that he has filed an affidavit (Annexure P-3) before the Director, Town and Country Planning, therefore by implication of Section 37 (3) of the *Adhiniyam*, 1973 the notice will automatically be suspended, till it is decided. He further submits that the respondent authority have rushed to the spot and seized certain materials which would be contrary to the statutory mandate of the *Adhiniyam* 1973.

2. Learned State counsel on instructions would submit that certain format is prescribed to apply under Section 37 (3) of the *Adhiniyam*, 1973 and since it has not been applied in the said manner as such format no proceedings can be initiated.
3. Perused the documents.
4. Perusal of the record shows that the petitioner was served with a notice dated 22.07.2021, stating that certain illegal construction has been made beyond the permissible limit which was sanctioned. Subsequent thereto the petitioner has filed an affidavit before the authority. During the course of submission, since it is mooted that the application under Section 37 (3) in the required format is required, considering the fact, that the petitioner has already filed an affidavit though application as required in format is not placed in order to advance the cause of justice on merits, it is directed that the petitioner shall be at liberty file necessary application as prescribed in the format of Rules of Nagar Tatha Gram Nivesh, 2012 within a period of 10 days from the date of receipt of a copy of this order before the director. In such case if application is filed the same would be decided as per the statutory mandate of *Adhiniyam*, 1973 by the Director. On such eventuality, if the application is filed, it is directed that no coercive steps shall be taken against the petitioner till it is decided as per the provisions of Section 37 (3) of the *Adhiniyam*, 1973.
5. With the aforesaid observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge