

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**W.P.(C) No. 2485 of 2019**

Paras Jain, S/o. Late Bhawarlal Jain, Aged About 50 Years, R/o. Motor Stand Ward No. 29, Infront Of Gola Bidi Karkhana, Dhamtari, Chhattisgarh.

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh, Through Its Secretary, Department Of Urban Administration Mahanadi Bhawan, Atal Nagar, Nava Raipur Chhattisgarh.
2. Commissioner, Municipal Corporation Dhamtari, District Dhamtari Chhattisgarh.
3. Estate Officer, Municipal Corporation Dhamtari, District Dhamtari Chhattisgarh.
4. Collector, Dhamtari, District Dhamtari Chhattisgarh.
5. Tehsildar, Dhamtari, District : Dhamtari, Chhattisgarh
6. Smt. Mohini Devi Jain, W/o. Late Ghevar Chand Jain, Aged About 83 Years, R/o. Motor Stand Ward, Police Station City Kotwali, Dhamtari, District Dhamtari Chhattisgarh.

**---- Respondents**

|                                    |   |                                   |
|------------------------------------|---|-----------------------------------|
| For Petitioner                     | : | Mrs. Astha Shukla, Advocate       |
| For State/Respondents No.1, 4 & 5. | : | Mr. Ashish Tiwari, Govt. Advocate |
| For Respondent No.2 & 3            | : | Mr. Pankaj Agrawal, Advocate      |
| For Respondent No.6                | : | Mr. B.P.Sharma, Advocate          |

**Hon'ble Shri Justice Goutam Bhaduri**

**ORDER**

**16.07.2021**

Heard

1. The instant petition was filed against the order dated 11.07.2019 & 04.07.2019 (Annexure P-1) issued by the Municipal Corporation Dhamtari whereby the petitioner was directed to remove the construction made on the ground that it is against the sanctioned map and permissible FAR and Master Plan.
2. The return of the respondent No.2 & 3/ Municipal Corporation and respondent No.6 has been filed.
3. Learned counsel for the petitioner would submit that it is at the behest of the respondent No.6, frivolous complaint has been made and the photographs have been taken in such an angle to show and to impress upon that the construction is illegal.
4. Learned counsel for the respondent No.2 & 3/ Municipal Corporation would

submit that they have filed the return and according to their return, the permissible construction was not carried out and were beyond the permissible limit.

5. The rejoinder to reply along with certain photographs are filed by the petitioner, wherein it is stated that the construction is in accordance with law and according to the sanctioned map.
6. Considering the fact that the claim of all the rival parties has come up, as the petitioner is saying that the construction is valid and in accordance with the sanctioned map, whereas the respondent No.6 has seriously disputed the same and the respondent Municipal Corporation too have not supported the claim of the petitioner.
7. Since the disputed question of fact has come up and different photographs have been placed on record and both the parties claimed that the photographs have been taken in such an angle which suits their convenience, therefore, this issue cannot be decided by this Court. In the circumstances, the Municipal Corporation is directed to carry out a fresh inspection at the presence of the petitioner and the respondent No.6 and thereafter after examination of the fact about the new construction or repair, the Municipal Corporation shall be free to move in accordance with law. It is expected that the aforesaid exercise shall be carried out as early as possible.

Sd/-  
**(Goutam Bhaduri)**  
**JUDGE**

Aks