

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3787 of 2021

Md. Ilyas Meman Aged About 59 Years, S/o Mo. Abdul Ajj, R/o Near Gulshan Apartment, Noorani Chowk, Raja Talab, Raipur, Chhattisgarh

---- Petitioner

Versus

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

---- Respondents

WPC No. 3779 of 2021

Mohammed Yunus Memon S/o Abdul Ajj Aged About 53 Years R/o Near Rida Provision Store, Chaurasiya Colony, Raipur Chhattisgarh

---- Petitioner

Versus

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

---- Respondent

WPC No. 3783 of 2021

Memuna Begam Belim W/o Mr. Abdul Rajjak, Aged About 70 Years Resident Of Near Naydu Aata Chakki, Baijnath Para, Raipur Chhattisgarh.

---- Petitioner

Versus

1. Municipal Corporation, Raipur Through Its Commissioner, Municipal Corporation, Raipur (Chhattisgarh)
2. The Commissioner Municipal Corporation, Raipur, Raipur, Distt. Raipur Chhattisgarh.
3. Zone Commissioner Zone No. 4, Municipal Corporation, Raipur (Chhattisgarh)

---- Respondents

WPC No. 3788 of 2021

Anwar Rehman Khan S/o Mr. Fajlur Rahman Khan Aged About 36 Years R/o 1146, Sanjay Nagar Raipur Chhattisgarh.

---- Petitioner

Versus

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

---- Respondents

WPC No. 3789 of 2021

Mohammed Idrish Memon S/o Mr. Abdul Ajj, Aged About 56 Years R/o V.V. Vihar, Road No. A-1, Mowa, Saddu, Sardhoo, Raipur Chhattisgarh

---- Petitioner

Versus

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

---- Respondents

WPC No. 3790 of 2021

Tanmay Chatterjee S/o Mr. Kali Prasad Chatterjee Aged About 55 Years Resident Of 1507, Behind Axis Bank, Near Bus Stand, Gurun Govind Nagar, Raipur Chhattisgarh.

---- Petitioner

Versus

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

---- Respondents

WPC No. 3791 of 2021

Mohd. Siddique Qureshi S/o Mr. Mo. Mehmood Qureshi Aged About 49 Years Resident Of 17/1035, Afroj Baag, Madha Para, Raipur Chhattisgarh.

---- Petitioner

Versus

1. Municipal Corporation Raipur Through Its Commissioner, Municipal Corporation, Raipur (Chhattisgarh)
2. The Commissioner Municipal Corporation Raipur, Raipur, District Raipur Chhattisgarh.
3. Zone Commissioner Zone No. 04, Municipal Corporation Raipur Chhattisgarh.

---Respondents

For Petitioners : Shri Raza Ali, Advocate.

For respondents : Shri Anumeh Shrivastava, Advocate appears in WPC No. 3787/2021 & WPC No. 3783/2021.

For respondents : Shri Sandeep Dubey, Advocate appears in WPC No. 3788/2021, WPC No.3789/2021, WPC No.3791/2021, WPC No. 3779/2021 & WPC No.3790/2021

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

16/09/2021

1. Default as pointed out by the Registry is ignored in WPC No.3787/2021, WPC No.3788/2021, WPC No.3789/2021 & WPC No.3791/2021.
2. All these petitions are heard and decided by this common order as similar issue is involved in all the petitions.
3. Challenge in these petitions is to the notice dated 8/09/2021 by the Municipal Corporation to the petitioners wherein the petitioners have been asked to vacate the premises which are in their occupation for the reason that despite allotment of new shop under the rehabilitation scheme at Pandri for the fish market they still continue to hold the earlier premises. Therefore they have been asked to vacate the premises as otherwise it would be get vacated by demolition of structure.
4. Learned counsel for the petitioners submits that the petitioners are paying the taxes and electricity charges in respect of the premises and are in occupation, therefore they should not be evicted forcefully.
5. Per contra, learned counsel for the Municipal Corporation would submit that the fish market have been earmarked at a different place wherein the shops have also been allotted to the different people who were actually carrying on the shop and in cases where the persons who were originally running the fish shop has rented out to third party and have occupied a different shop under the scheme of the Municipal, therefore the petitioners who are completely

encroachers cannot claim any protection.

6. Prima facie the documents filed with the petition do not show any grant in favour of the petitioners by way of lease or otherwise. Merely for the reason tax are paid it would not change the nature of occupation in absence of any grant of land/shop. No documents have been filed to show either the ownership or any lease by competent authority. The petitioners claims that they are carrying on their shop in the premises whereas the Corporation contended that they are ranked trespassers and have encroached on land. On consideration of documents it appears these are highly disputed question of facts, which cannot be adjudicated in a writ petition. The documents shows that the notices have been served to the petitioners on 8/09/2021. Considering the tenor of notice, as a breathing time the petitioners are given liberty to file reply to the notice within a period of 10 days from today and if such reply are filed, the respondent/authority shall consider the same and shall decide the cause within a period of 30 days. Till the decision by Corporation is arrived at within the aforesaid period, no forcefull demolition may be carried out in respect of the premises wherein the petitioners are in occupation.
7. With such observation, the petitions stand disposed of.

Sd/-

(Goutam Bhaduri)

Judge