

**ORDER**

**Per Vivek Rusia, J :**

The appellants/petitioners have filed the present Writ Appeal against the order dated 28.2.2022 whereby W.P. No.6325/2021 has been finally disposed of.

Learned senior counsel appearing for the appellants/petitioners submits that by way of the writ petition the petitioners sought the relief to the effect that the respondents be restrained to the removal of scrap material and valuable household items from their land but the Writ Court has granted the contrary relief by directing the petitioners to remove the scrap material and valuable items from the site, hence the petitioners are before the Division Bench of this High Court.

According to the petitioners, Indore Municipal Corporation issued the notice u/s. 307 of the M.P. Municipal Corporation Act, 1956 for demolishing of illegal construction of restaurant and shop. Thereafter, on 4.1.2020 the respondents demolished the construction and left the scrap material on the land in question, which is lying there for almost one year. On 11.3.2021, the respondents have sent dumpers and trucks for picking up the scrap material and household belongings to the petitioner without issuing any prior notice to the petitioners. The petitioners have made a complaint on CM Helpline. Petitioner No.1 has also preferred a civil suit before the District Court, Indore along with an application under Order 39 Rule 1 & 2 of C.P.C. which is pending for consideration. Hence, the writ petition was filed which came up for consideration on 28.2.2022 and it was disposed of on a submission made by the counsel for the respondents that they have no objection to the removal of scrap material and valuable household

belongings to the petitioner from the site. The Writ Court has directed the petitioners to remove the scrap and valuable items from the site within a period of six weeks.

Learned senior counsel for the petitioners submits that the Writ Court has granted the relief contrary to the relief claimed by the petitioner. At the most, the Municipal Corporation can demand the charges from the petitioners. It is not in dispute that the petitioners are the owners of the land in question where the scrap material is lying and it is not causing any inconvenience to the general public, therefore, the respondents have no authority to remove the scrap material and other items. Even the writ Court has wrongly directed the petitioner to remove the scrap material and other items.

On the other hand, learned counsel appearing for respondents/Corporation opposes the prayer by submitting that after the consensus is arrived at between the parties, the learned Writ Court has passed the order, therefore, the present writ appeal is not maintainable. It is further submitted that the Commissioner, Municipal Corporation has powers u/s. 213 of the Municipal Corporation Act, 1956 to call upon the owner of such premises or the owner of the materials or debris of building materials stored or collected in or upon any premises to remove the same. It is further submitted that though the scrap material and other items after demolition are lying on the land in question belonging to the petitioner but now they are being spread over the street which is causing inconvenience to the general public and the Municipal Corporation was only removing that part. Even otherwise, the learned advocate submits that the petitioners cannot be permitted to keep the said material for a longer period which is prohibited u/s. 216 of the Municipal Corporation Act.

Heard,

It is not in dispute that the construction belonging to the present petitioners had already been demolished on 4.1.2020 and the scrap material and other items are lying on the land in question since last more than one year. The respondents tried to remove the same on 11.3.2021 but it was objected to by the petitioners. The petitioners cannot be permitted to store the scrap material for an indefinite period. Section 313 of the Municipal Corporation Act authorises the Municipal Corporation to call upon the owner of the property or owner of the material to remove it or dispose of it. Section 313 of the Municipal Corporation Act is reproduced below :

**“313. Removal of building materials from any premises in certain cases.** - If it appears to the Commissioner that any stone, rafters, building materials or debris of building materials are stored or collected in or upon any premises in such quantity or bulk or in such a way as to constitute a harbourage or breeding place for rats or other vermin or is otherwise a source of danger or nuisance to the occupiers of the said premises or to persons residing in the neighbourhood thereof, the Commissioner may by a written notice require the owner of such premises, or the owner of the materials or debris so stored or collected therein, to remove or dispose of the same or to take such order with the same as may, in the opinion of the Commissioner be necessary or expedient to abate the nuisance or prevent a recurrence thereof.”

Once the construction has been demolished, then the scrap material and other building materials should be removed by the owner. The collection of garbage or waste material or scrap or trash of large quantity lying in an open place may spread unhygienic things and may give rise to the growth of mosquitoes, bacteria, rats, etc. Another negative impact of waste materials on the environment is the creation of air pollution. Trash often carries an odour with it, which suggests

that it is giving off chemical gasses to the air around it which can have potentially life-threatening effects over time. Not only does waste removal contribute to air pollution, but it also contributes to water pollution. Whenever dangerous chemicals and toxins build up around waste removal plants, they will run off into nearby water. It will also seep into the soil and affect the quality of the surface water. Indore city is known for cleanest in India. Indore Municipal Corporation has to maintain the cleanliness of the city in the public interest. If the removal of waste material, scrap, trash and other items which are not disposed of within a reasonable time, then the Municipal Corporation can remove thereafter recover the cost from the owner. Therefore, in the considered opinion of this Court, the Writ Court has not committed any error while directing the petitioners to remove the scrap material and other items from the land in question. No case for interference is made out.

Accordingly, this writ appeal fails and is hereby dismissed.

[ VIVEK RUSIA ]  
JUDGE.

[AMAR NATH (KESHARWANI)]  
JUDGE.

Alok/-