

HIGH COURT OF CHHATTISGARH, BILASPUR**Contempt Petition (C) No.288 of 2016**

1. Kuber Grih Nirman Sahkari Samiti Maryadit, Rohinipuram, Raipur, Through its Vice Chairman K.P. Tiwari, S/o Shri Satanand Tiwari, aged about 44 years, R/o VIP Colony, Shanker Nagar, Raipur, Chhattisgarh
2. Priyadarshini Grih Nirman Sahkari Samiti Maryadit, through its Chairman Rajesh Shrivastava, S/o Late Shri B.C. Shrivastava, aged about 65 years, R/o Priyadarshini Nagar, Raipur, Chhattisgarh
3. Rajiv Grih Nirman Sahkari Samiti Maryadit, through its Vice Chairman, B.M. Chilamwar, S/o Late Shri M.P. Chilamwar, aged about 66 years, R/o Bajaj Colony, Katora Talab, Raipur, Chhattisgarh
4. Sevak Ram Pandey, S/o Late Shri G.R. Pandey, aged about 68 years, Member, Kuber Grih Nirman Sahkari Samiti Maryadit, R/o Rohinipuram, Raipur, Chhattisgarh

---- Petitioners**versus**

1. D.D. Singh, S/o not known, aged about 56 years, Secretary, Department of Cooperative, Government of Chhattisgarh, Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh
2. J.P. Pathak, S/o not known, aged about 55 years, Registrar, Cooperative Societies, Chhattisgarh, Raipur, Indrawati Bhawan, Naya Raipur, Raipur, Chhattisgarh
3. N.R.K. Chandrawanshi, S/o not known, aged about 45 years, Deputy Registrar, Cooperative Society, Raipur, Vivekanand Complex, Pension Bada Chowk, Vivekanand Nagar, Raipur, Chhattisgarh

---- Respondents

For Petitioners	:	Shri B.P. Gupta and Ms. Richa Jain, Advocates
For Respondents	:	Shri Rajeev Shrivastava, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Order on Board****Per Deepak Gupta, Chief Justice****7.9.2016**

1. This contempt petition cannot even be entertained because of the conduct of the Petitioners/Societies themselves.
2. The Petitioners/Societies filed a writ petition in which they claimed that the general directions given by the Cooperative Society that no NOC will be required when a Member of the Petitioners/Societies transfers a plot/house held under the Society to any outsiders are illegal. It was contended that the Petitioners/Societies have their own bye-laws and

the Societies are formed by particular groups of people. The case of the Petitioners was that no member of the Society can have an unfettered right to sell his property to a non-member of the Society without getting NOC from the Societies. Writ Petition (C) No.301 of 2012 filed by the Petitioners/Societies was rejected. Thereafter, Writ Appeal No.1060 of 2012 was filed, which was allowed and this Court held as follows:

“12. Thus, in our view, what is in the interest of the Society is primarily for the Society alone to decide and it is not for any outside agency to say. Even if the Registrar exercises any statutory powers of issuing directions to a Society, such directions should satisfy the requirement of the interests of the Society.

13. We are therefore of the opinion that the blanket direction issued by the Registrar in the impugned orders are not sustainable and are set aside. We may not be understood to mean that under no circumstances can the Registrar examine the issue for refusal of NOC by a particular Housing Co-operative Society if a complaint is made before him or brought to his attention. If unreasonable conditions are being imposed, the NOC is denied without valid reasons, the aggrieved not only has the remedy under the Act but the Registrar equally has vast powers under Section 53 and 53-A to take action against the concerned Co-operative Society also. The possibility that there may be an abuse or that there have been errant instances, cannot be sufficient justification for issuing blanket orders of the present nature which may affect the very basic structure of the Society itself and be against its interests.”

- 3.** The Petitioners/Societies thereafter filed the present contempt petition alleging that despite orders passed by this Court in Writ Appeal No.1060 of 2012, the Respondents had again issued letter A3 which is contemptuous. It would be pertinent to mention that after decision of the case a letter dated 20.7.2015 (A2) addressed by the Registrar to the officers lower in the hierarchy was sent drawing their attention to the judgment passed in Writ Appeal No.1060 of 2012 on 28.4.2015 and it was directed that this judgment be complied with. Thereafter,

another letter, A3 was issued on 26.3.2016 in which the attention of the same officers was drawn by the Registrar to the amended bye-laws of the Societies and they are directed to be followed. According to the Petitioners/Societies, this amounts to contempt of Court.

4. *Prima facie*, we were also of the view that the letter (A3) dated 26.3.2016 amounted to contempt of the orders of this Court passed in Writ Appeal No.1060 of 2012. We, therefore, had issued notice to the Respondents. Now, reply has been filed by the Respondents and some fresh facts have been brought to our notice. The most important fact is that vide notification dated 29.1.2014, the bye-laws of the Petitioners/Societies had been amended and as per the amendment, there was no requirement to obtain any NOC from the Societies. It has also been brought to our notice that these bye-laws were challenged by the Petitioners/Societies by filing Writ Petition (C) No.984 of 2014 which was filed on 11.5.2014. This petition was thereafter withdrawn on 17.6.2014 with liberty to file statutory appeal under the relevant provisions of the Chhattisgarh Cooperative Societies Act, 1960.
5. Surprisingly, when Writ Appeal No.1060 of 2012 was argued, it was not brought to the notice of the Division Bench that the bye-laws have been amended and those are under challenge before the Appellate Authority. Even when the instant contempt petition was filed, neither attention of this Court was drawn to the amended bye-laws nor we were told that the Petitioners/Societies had filed a writ petition challenging the amendment made to the bye-laws. It is true that the appellate Court in Writ Appeal No.1060 of 2012 had directed that there can be no blanket orders that the Societies can be debarred from claiming that their NOC should be sought for before transferring the plot, but that order was passed without the attention of the Division

Bench being drawn to the amended provisions of the bye-laws.

6. We may make it clear that we are not commenting on the issue as to whether the amendment to the bye-laws is valid or not. That will have to be decided either by the Appellate Authority or in further proceedings before the appropriate forum. But, as long as the bye-laws stand, they have to be complied with and the second letter (A3) which has been issued only draws the attention of the officers to the bye-laws. The conduct of the Petitioners/Societies that they, while arguing the matter before the Division Bench in the writ appeal or even while filing the contempt petition before this Court, withheld material facts which were known to them, i.e., that the bye-laws have been amended and as a provision were inserted that no NOC or clearance of the Society was required, and that they had earlier challenged the amendment by filing writ petition or that their appeal is pending disentitles them from grant of any relief. We are clearly of the view that the letter A3 does not amount to willful disobedience of the orders of this Court in view of the fact that the bye-laws were amended.
7. There is no willful disobedience of the orders of this Court and, therefore, the instant contempt petition is dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE