

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 248 of 2017

(Arising out of order dated 13.04.2017 in WPC No. 684 of 2017 by the learned Single Judge)

- Hoshiyari Lal Agrawal S/o Shambhu Ram Agrawal, Aged About 59 Years R/o Hari Kishan Colony, In Front Of Mamta Tent House, Shiv Talkies Road, District Bilaspur (Chhattisgarh).

---- Appellant

Versus

1. State of Chhattisgarh Through The Secretary, Department Of Accommodation & Environment, Mahanadi Bhawan, Mantralaya, New Raipur, Raipur (Chhattisgarh).
2. Commissioner-Cum-Director, Nagar Tatha Gram Nivesh, Naya Raipur, District Raipur, Chhattisgarh
3. Collector, District Raipur, Chhattisgarh
4. Chief Executive Officer, Raipur Development Authority, Bhakt Mata Karma Parisar, New Rajendra Nagar, Raipur, District Raipur, Chhattisgarh
5. Municipal Corporation, Raipur Through its Commissioner, Raipur, Chhattisgarh
6. Sanjay Bajpai, Builders Private Limited, (New Swagat Vihar Project), Through- Its Managing Director Smt. Sarita Bajpai, R/o 3rd Floor, Krishna Complex, Jail Raod, Raipur, District- Raipur, Chhattisgarh
7. Diwan Housing Finance Corporation Limited, DHFL, Registered Office- Wardern House, Second Floor, Sir P.M. Raod, Fort Mumbai 400001
8. Rajesh Dubey S/o Shri Manilal Dubey Aged About 44 Years R/o House No. 171, Behind The Tank Colony, Fafadih, Raipur, Tahsil & District Raipur, Chhattisgarh

---- Respondents

And

WA No. 276 of 2017

- Smt. Bina Singh (Smt. Beena Singh) W/o Ashok Kumar Signh, Aged About 57 Years R/o Q No. 7a, Street Avenue B, Sector-1, Bhilai, District- Durg, Chhattisgrh.

---- Appellant

Vs

1. State of Chhattisgarh Through The Secretary, Department of Accommodation & Environment, Mahanadi Bhawan, Mantralay. New Raipur, Dist. Raipur (Chhattisgarh).
2. Commissioner - Cum- Director, Nagar Tatha Gram Nivesh Naya Raipur, District Raipur, Chhattisgarh.
3. Collector, District Raipur, Chhattisgarh.
4. Chief Executive Officer, , Raipur Development Authority, Bhakt Mata Karma Parisar, New Rajendra Nagar, Raipur District- Raipur, Chhattisgarh.

5. Municipal Corporation Raipur Through The Commissioner, Raipur, Chhattisgarh.
6. Sanjay Bajpai Builders Pvt. Ltd. (New Swagat Vihar Project). Through Its Managing Director Smt. Sarita Bajpai, R/o 3rd Floor, Krishna Complex, Jail Road, Raipur, District Raipur, Chhattisgarh.
7. Diwan Housing Finance Corporation Ltd. D H F L Regd. Off. Wardern House, Second Floor, Sir P.M. Road, Fort Mumbai 400001

---- Respondents

And

WA No. 277 Of 2017

- Smt. Seema Shah W/o Vinesh Shah, Aged About 54 Years R/o Techno Industries, Katora Talab, Raipur, District Raipur, Chhattisgarh

---- Appellant

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Accommodation & Environment, Mahanadi Bhawan, Mantralaya, New Raipur, Raipur, Chhattisgarh
2. Commissioner-Cum-Director, Nagar Tatha Gram Nivesh, Naya Raipur, District Raipur, Chhattisgarh
3. Collector, District Raipur, Chhattisgarh
4. Chief Executive Officer, Raipur Development Authority, Bhakt Mata Karma Parisar, New Rajendra Nagar, Raipur, District Raipur, Chhattisgarh
5. Municipal Corporation Raipur, Through The Commissioner, Raipur, Chhattisgarh
6. Sanjay Bajpai Builders Pvt. Ltd., (New Swagat Vihar Project), Through Its Managing Director Smt. Sarita Bajpai, R/o 3rd Floor, Krishna Complex, Jail Road, Raipur, District Raipur, Chhattisgarh
7. Diwan Housing Finance Corporation Ltd., D H F L, Regd. Off. Warden House, Second Floor, Sir P.M.Road, Fort, Mumbai 400001

---- Respondents

And

WA No. 278 Of 2017

- Smt. Varsha Sharda W/o Amol Sharda, Aged About 38 Years R/o Chhattisgarh Cloth Center, Bagbahra, District Mahasamund, Chhattisgarh

---- Appellant

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Accommodation & Environment, Mahanadi Bhawan, Mantralaya, New Raipur, Raipur, Chhattisgarh
2. Commissioner-Cum-Director, Nagar Tatha Gram Nivesh, Naya Raipur, District Raipur, Chhattisgarh

- 3. Collector, District Raipur, Chhattisgarh
- 4. Chief Executive Officer, Raipur Development Authority, Bhakt Mata Karma Parisar, New Rajendra Nagar, Raipur, District Raipur, Chhattisgarh
- 5. Municipal Corporation Raipur, Through The Commissioner, Raipur, Chattisgarh
- 6. Sanjay Bajpai Builders Pvt. Ltd., (New Swagat Vihar Project), Through Its Managing Director Smt. Sarita Bajpai, R/o 3rd Floor, Krishna Complex, Jail Road, Raipur, District Raipur, Chhattisgarh
- 7. Diwan Housing Finance Corporation Ltd., D H F L, Regd. Off. Warden House, Second Floor, Sir P.M.Road, Fort, Mumbai 400001

---- Respondents

And

WA No. 279 Of 2017

- Smt. Sapna Goshwami W/o Nirmalpur Goshwami, Aged About 36 Years R/o Kasturba Nagar, Near Kaushik Kirana Store, Sindhi Colony, District Bilaspur, Chhattisgarh

---- Appellant

Vs

- 1. State Of Chhattisgarh Through The Secretary, Department Of Accommodation & Environment, Mahanadi Bhawan, Mantralaya, New Raipur, Raipur, Chhattisgarh
- 2. Commissioner-Cum-Director, Nagar Tatha Gram Nivesh, Naya Raipur, District Raipur, Chhattisgarh
- 3. Collector, District Raipur, Chhattisgarh
- 4. Chief Executive Officer, Raipur Development Authority, Bhakt Mata Karma Parisar, New Rajendra Nagar, Raipur, District Raipur, Chhattisgarh
- 5. Municipal Corporation Raipur, Through The Commissioner, Raipur, Chattisgarh
- 6. Sanjay Bajpai Builders Pvt. Ltd., (New Swagat Vihar Project), Through Its Managing Director Smt. Sarita Bajpai, R/o 3rd Floor, Krishna Complex, Jail Road, Raipur, District Raipur, Chhattisgarh
- 7. Diwan Housing Finance Corporation Ltd., D H F L, Regd. Off. Warden House, Second Floor, Sir P.M.Road, Fort, Mumbai 400001

---- Respondents

For Appellants	: Shri BD Guru, Advocate
For State	: Shri UNS Deo, Government Advocate
For other respective respondents	: Shri Pankaj Agrawal and Shri Ashish Shrivastava, Advocates

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

10.11.2017

1) These Writ Appeals were entertained on certain limited issues. All these appeals stand with orders which state *inter alia* as follows:

"In view of the judgment of the Hon'ble Supreme Court of India in **United Bank of India Vs Satyawati Tondon and others, (2010) 8 SCC 110** we do not find any ground to entertain the appeal insofar as relief against action under the SARFAESI Act (Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002) has been refused. However, the appellant has raised other grounds in the writ petition, including by seeking relief against the State. Hence, this Writ Appeal is admitted without prejudice to contentions and the proceedings before the Debt Recovery Tribunal or other superior statutory authorities in accordance with the provisions of the SARFAESI Act and RDB Act (Recovery of Debt due to Banks and Financial Institutions Act, 1993)."

2) Today we have heard learned counsel for the appellants, the learned Government Advocate for the State and the learned counsel for other respondents. It is pointed out that on issues relating to questions other than SARFAESI Act, parties have common judgment in WPC- 2009 & 2010 of 2015, as well as separate order in WPC-2027 of 2016 & 135 of 2017. It is submitted by the learned counsel for the appellants that these appeals may be closed without prejudice to the right of the appellants to avail the benefit of the aforementioned order.

3) We record the aforesaid submissions and accordingly order these writ appeals directing that the judgment impugned in these writ appeals will not stand in the way of the appellants utilising the benefit, if any, that may accrue in their favour as well, in terms of the common orders in WPC-2009 & 2010 of 2015 and WPC-2027 of 2016 & 135 of 2017. These Writ Appeals are ordered accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge

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