

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No.3438 of 2005**

1. Mr. Rashid Ahmad Siddiqui, S/o late Mrs. Akhtar Siddiqui, aged about 54 years, R/o HIG-9, Arya Colony, Tifra Bilaspur (CG).
2. Mr. Irfan Ahmad Siddiqui, S/o late Mrs. Akhtar Siddiqui, aged about 46 years, R/o HIG -9 Arya Colony, Tifra, Bilaspur (CG).

---- Petitioners**Versus**

1. Arya Grih Nirman Sahkari Samiti Maryadit, MIG/7, Arya Colony, Tifra, Bilaspur having registration No.54/87, through its President, Smt. Kanta Sinha.
2. Housing and Urban Development Corpn. Ltd (A Government of India Enterprise), Regional Office-I-B, Surya Apartment, Katora Talab, Raipur Having its registered office at HUDCO House, Lodhi Road, New Delhi.
3. Smt. Kanta Sinha, President Arya Grih Nirman Sahkari Samiti Maryadit, MIG/7, Arya Colony, Tifra, Bilaspur (CG) having registration No.54/87.
4. Registrar Co-operative Societies, Raipur (CG).
5. The Recovery Officer, Debt Recovery Tribunal South Civil Lines, Jabalpur (MP).

---- Respondents**AND****Writ Petition No.3439 of 2005**

1. Smt. Saleha Badar Rizvi, wife of late B.Z. Rizvi, aged about 53 years, resident of G-1/99, 1100 Quarters, Near Jain Mandir, Bhopal (M.P.).

---- Petitioner**Versus**

1. Arya Grih Nirman Sahkari Samiti Maryadit, MIG/7, Arya Colony, Tifra, Bilaspur, A Samiti having registration No.54/87, through its President, Smt. Kanta Sinha.
2. Housing and Urban Development Corporation Limited A Government of India Enterprise), having its registered office

at HUDCO House, Lodhi Road, New Delhi amongst other offices
Regional Office at 1-B, Surya Apartment, Katora, Talab, Raipur
(CG).

3. Smt. Kanta Sinha, President Arya Grih Nirman Sahkari Samiti Maryadit, MIG/7, Arya Colony, Tifra, Bilaspur (CG) having registration No.54/87.
4. The Assistant Manager, Arya Greh Nirman Sahkari Samiti Maryadit, MIG-7, Arya Colony, Tifra, Bilaspur (CG).
5. Registrar Co-operative Societies, Raipur (CG).
6. The Recovery Officer, Debt Recovery Tribunal, Shanti Kunj, South Civil Lines, Jabalpur (MP).

---- Respondents

For Petitioners : Dr. N.K. Shukla, Sr. Advocate with Mr. Shailendra Shukla & Mr. Vikram Sharma, Advocates
For Respondents : Mr. Arun Sao, Dy.A.G., Mr. P.R. Patankar, Mr. Malay Shrivastava and Ms. Shiksha Verma, Advocates

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

11/05/2017

(1) W.P. No.3438/2005 & W.P. No.3439/2005, involve common facts and common question of law and, as such, require consideration and disposal by the common order.

(2) The petitioners herein are members of Respondent No.1- Housing Society. A dispute arose in regard to payment of dues to respondent No.2-HUDCO. The matter was ultimately taken to the Debt Recovery Tribunal (for short 'the DRT') in O.A. No.78/2001. Thereafter, a notice for settling the sale proclamation was issued on 24.02.2005 and auction notice dated 21.07.2005 published in the newspaper namely Dainik Bhaskar newspaper on 15.06.2005.

(3) The petitioners have challenged the afore-stated issues in these petitions and sought for a direction not to dispossess the petitioners from their respective houses allotted to them.

(4) The question arise in these cases is as to whether once the DRT has considered and decided the issue, whether the writ petition at the instance of members is maintainable on the ground that the entire payment has been made to the respondent No.1- Society and, as such, no recovery can be made from them and also that they were not the parties before the DRT.

(5) During pendency of these petitions, the Registrar, Cooperative Societies, was directed to submit its report after affording the opportunity of hearing to all the parties concerned. The Registrar, Cooperative Societies, has submitted his report giving his opinion in respect of the liability, however, no final order has been passed. Under the provisions of C.G. Cooperative Societies Act, 1960, the Registrar is competent to resolve *inter se* disputes between the cooperative society and its members. In that view of the matter also, since the disputed facts are involved, it is just and proper that the Registrar, Cooperative Societies, should consider the case on merit and pass appropriate order, in accordance with law.

(6) Accordingly, the Registrar, Cooperative Societies, is directed to consider the issue as to who is liable to make the payment to the respondent society, as according to the

petitioners, the payment has already been made in order to satisfy the impugned order passed by the DRT, after affording proper opportunity of hearing to all the parties concerned.

(7) The parties are permitted to file relevant documents and pleadings before the Registrar, Cooperative Societies, in view of the fact that the order was passed way back on 05.07.2002. The Registrar is directed to consider and pass appropriate order, in accordance with law, on its own merit.

(8) Interim order granted on 28.07.2005 in W.P. No.3370/2005 shall continue for further period of three months, till the final decision by the Registrar, Cooperative Societies, in all cases. The Registrar may hear the matter personally or may delegate to the proper authority, who is dealing with the identical dispute.

(9) In view of foregoing, all the petitions stand disposed of. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-