

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1741 of 2012**

Dr. Satyaprakash Agrawal, S/o Shri Suraj Prakash Agrawal, aged about 67 years, R/o Sadar Road, Bolod, Tahsil Balod, District Durg (C.G.)

---- **Petitioner****Versus**

1. Samta Grih Nirman Sahkari Samiti Maryadit, Raipur, Through: It's President Samta Grih Nirman Sahkari Samiti Maryadit, Samta Colony, Raipur (C.G.)
2. Saluja Cloth Stores, through: Sardar Preetam Singh Saluja, Vivekanand Ashram Raipur, Tahsil and District Raipur (C.G.)
3. Deputy Registrar, Cooperative Societies Raipur, District Raipur (C.G.)
4. Joint Registrar, Cooperative Societies, Raipur, District Raipur (C.G.)
5. Additional Registrar, Cooperative Societies, Raipur, District Raipur (C.G.)
6. State of Chhattisgarh, Through: In-charge Minister, Department of Cooperatives, D.K.S. Bhawan, Raipur (C.G.)

---- **Respondents**

For Petitioner : Mr. P.P. Sahu, Advocate.
 For Respondent No.1 : Mr. S.S. Baghel, Advocate.
 For Respondent No. 2 : Mr. Gagan Tiwari, Advocate.
 For Respondents No. 3 to 6 : Mr. Dheeraj Wankhede, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****28/11/2017**

The petitioner raised a dispute under Section 64 of the Chhattisgarh Cooperative Societies Act, 1960 (henceforth "Act, 1960") before respondent No. 3, which was allowed by the respondent No.3,

against which respondent No. 2 preferred first appeal under Section under Section 77(1) of the Act, 1960, which was allowed by Joint Registrar holding that it is not a cooperative dispute cognizable under Section 64 of the Act, 1960, against which, the petitioner preferred second appeal before the respondent No. 5- Additional Registrar, Cooperative Societies. The Second Appellate Authority has set aside both the orders i.e. order passed in the application as well as the order passed by the First Appellate Authority holding that it is not a cooperative dispute as the question raised in the dispute could be challenged before the competent civil court only, against which the petitioner preferred revision under Section 78 of the Act, 1960 before the State Government. The State Government, by its impugned order dated 11.09.2012 set aside the order passed by Second Appellate Authority holding that dispute before the Deputy Registrar under Section 64 of the Act, 1960 is maintainable and the respondent No. 1 has rightly executed the cancellation deed dated 13.05.1982, against which instant writ petition has been filed questioning the same.

(2) Learned counsel for the petitioner would submit that the State Government after having held that dispute involved is a cooperative dispute under Section 64 of the Act, 1960, matter ought to have been referred to the second appellate court for deciding the matter on merits and it could not have been decided on merits.

(3) On the other hand, counsel for the respondents would support the impugned order.

(4) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(5) Second Appellate Authority has clearly held that dispute is not cooperative dispute cognizable under Section 64 of the Act, 1960 and only on that ground disposed off the matter whereas the State Government has held that dispute is cooperative dispute cognizable under Section 64 of the Act, 1960, therefore, the matter ought to have been referred to the second appellate authority for hearing and disposal in accordance with law on its own merits after setting aside the order of second appellate authority, which has not been done.

(6) In view of above, impunged order dated 11.09.2012 passed by the State Government deciding the matter on merits is set aside. The matter is remitted back to the second appellate authority i.e. Additional Registrar, Cooperative Societies, Raipur for hearing and disposal in accordance with law on its own merits expeditiously preferably within a period of four months from the date of receipt of certified copy of this order.

(7) The writ petition is allowed to the extent indicated hereinabove.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

