

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.1801 of 2017**

Mohammad Shahnawaz Khan S/o. M.A. Shamim Khan, aged about 42 years, R/o. HIG-29, Arya Colony, P.S. Sirgitti, Bilaspur, Distt. Bilaspur (CG)

---- Petitioner

Versus

1. Arya Grih Nirman Sahakari Samiti Maryadit, MIG/7, Arya Colony, Tifra, Bilaspur through its President
2. Deputy Registrar, Co-operative Societies, Bilaspur (CG)
3. Housing & Urban Development Corporation, Through its Authorized Representative B.V.V.S.N. Murthy Patnaik, A.G.M. at 1-B, Surya Apartment, Katora Talab, Raipur (CG)
4. Manjula Singh, W/o. Shri Ramji Singh, aged about 60 years, R/o. M-9, Krishna Nagar, Danganiya, Raipur (CG)

---- Respondents

WPC No.1800 of 2017

Rajkumar Wadhwani, S/o. Vijay Kumar Wadhwani, aged about 37 years, R/o. HIG-51, Arya Colony, Tifra, P.S. Sirgitti, Bilaspur, Distt. Bilaspur (CG)

---- Petitioner

Versus

1. Arya Grih Nirman Sahakari Samiti Maryadit, MIG/7, Arya Colony, Tifra, Bilaspur through its President
2. Deputy Registrar, Co-operative Societies, Bilaspur (CG)
3. Housing & Urban Development Corporation, Through its Authorized Representative B.V.V.S.N. Murthy Patnaik, A.G.M. at 1-B, Surya Apartment, Katora Talab, Raipur (CG)
4. Smt. Suchita Singh W/o B.S. Banafar, aged about 46 years, R/o MIG-2/102, Ravishankar Shukla Nagar, Korba, District Korba (CG)

---- Respondents

WPC No.1829 of 2017

Neelam Choudhary, W/o. Late Shri Rajendra Choudhary, aged about 44 years, R/o HIG-06, Arya Colony, Tifra, P.S. Sirgitti, Bilaspur, Distt. Bilaspur (CG)

---- Petitioner

Versus

1. Arya Grih Nirman Sahakari Samiti Maryadit, MIG/7, Arya Colony, Tifra, Bilaspur through its President
2. Deputy Registrar, Co-operative Societies, Bilaspur (CG)
3. Housing & Urban Development Corporation, Through its Authorized Representative B.V.V.S.N. Murthy Patnaik, A.G.M. at

1-B, Surya Apartment, Katora Talab, Raipur (CG)

4. Prashant Kumar Chandel S/o Shri P.S. Chandel, aged about 46 years, R/o HIG-50, Arya Colony, Tifra, P.S. Sirgitti, Bilaspur, Distt.Bilaspur (CG)

---- Respondents

And

WPC No.1802 of 2017

Baljeet Singh S/o. Late Shri Varyan Singh, aged about 43 years, R/o. HIG-35, Arya Colony, Tifra, P.S. Sirgitti, Bilaspur, Distt. Bilaspur (CG)

---- Petitioner

Versus

1. Arya Grih Nirman Sahakari Samiti Maryadit, MIG/7, Arya Colony, Tifra, Bilaspur through its President
2. Deputy Registrar, Co-operative Societies, Bilaspur (CG)
3. Housing & Urban Development Corporation, Through its Authorized Representative B.V.V.S.N. Murthy Patnaik, A.G.M. at 1-B, Surya Apartment, Katora Talab, Raipur (CG)
4. Smt. P.S. Pillai W/o Shri L. Pillai, aged about 69 years, R/o Flat No.302, Mahima Height, Mahima Vihar, Ring Road No.2, P.S. Civil Line, Bilaspur, Distt.Bilaspur (CG)

---- Respondents

For Petitioners	:	Mr.Sunil Pillai, Advocate
For Respondent No.1	:	Mr.Malay Shrivastava, Advocate
For Respondent No.2	:	Mr.Arun Sao, Dy.A.G.
For Respondent No.3	:	Mr.P.R.Patankar, Advocate
For Respondent No.4	:	Mr.Ashish Shrivastava and Mr.Vivek Verma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

13/09/2017

1. Since common question of law and facts are involved in these writ petitions, they are heard together and are being disposed of by this common order.
2. These writ petitions are directed against the order dated 20.9.2016 passed by the Chhattisgarh State Co-operative

Tribunal, Bilaspur (hereinafter called as "Tribunal"), whereby the Tribunal has affirmed the order dated 17.12.2013 passed by the Deputy Registrar, Co-operative Societies, Bilaspur.

- 3.** Mr.Sunil Pillai, learned counsel appearing for the petitioners, would submit that the petitioners have purchased the suit properties by auction held by the Debt Recovery Tribunal, Jabalpur on 28.7.2005 and respondent No.2/Deputy Registrar, Co-operative Societies, Bilaspur by order dated 17.12.2013 has held the auction to be illegal. In the said proceedings, the petitioners were neither served with any notice nor impleaded them as party defendants and that order has been affirmed by the Tribunal by the impugned order, which is unsustainable and bad in law, therefore, the impugned order deserves to be set aside as the petitioners were not afforded a reasonable opportunity of being heard.
- 4.** Mr.Malay Shrivastava, learned counsel appearing for respondent No.1, would support the petitioners.
- 5.** Mr.Arun Sao, learned State Counsel appearing for respondent No.2, would support the impugned order.
- 6.** Mr.P.R.Patankar, learned counsel appearing for respondent No.3, would support the petitioners.
- 7.** Mr.Ashish Shrivastava learned counsel appearing for respondent No.4, would submit that order passed by respondent No.2 is strictly in accordance with law and it has

rightly been affirmed by the Tribunal. He would further submit that pursuant to the order passed by this Court in WP No.3370 of 2005 and other connected matters, the matters were referred to the Registrar/Deputy Registrar, Co-operative Societies and the petitioners were quite aware about pendency of proceedings before the Deputy Registrar, Co-operative Societies, but they themselves have chosen not to appear in the said proceedings. The petitioners have participated in the auction proceedings and purchased the properties. Therefore, the order passed by the Deputy Registrar, Co-operative Societies, Bilaspur has rightly affirmed by the Tribunal.

- 8.** I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
- 9.** It is not in dispute that the Debt Recovery Tribunal, Jabalpur has granted sale certificate in favour of respondent No.3/HUDCO and thereafter, the Debt Recovery Tribunal has auctioned the suit properties, in which the petitioners have participated and purchased the suit properties in auction and thereafter sale certificate has been issued in their favour on 10.10.2013, therefore, respondent No.4 (in all cases) ought to have impleaded the petitioners as party defendants in the proceedings before the Deputy Registrar, Co-operative Societies, Bilaspur and thereafter the Deputy Registrar,

Co-operative Societies could have proceeded to decide the applications as being auction purchasers the petitioners were not only proper but also necessary party. In absence of impleadment of the petitioners as party defendants, the Deputy Registrar, Co-operative Societies, Bilaspur has held the action to be illegal. Therefore, the order passed by the Deputy Registrar, Co-operative Societies, Bilaspur is in violation of natural justice and without hearing them. The Tribunal also did not look into this aspect of the matter and in a very cryptic and casual order affirmed the order passed by the Deputy Registrar, Co-operative Societies, Bilaspur which cannot sustain.

- 10.** Accordingly, the impugned order dated 17.12.2013 passed by respondent No.2/Deputy Registrar, Co-operative Societies, Bilaspur and the impugned order dated 20.9.2016 passed by Chhattisgarh State Co-operative Tribunal are hereby set aside. Respondent No.4 (in all cases) should be directed to implead the petitioners as party defendants in the said proceedings and thereafter respondent No.2/Deputy Registrar, Co-operative Societies, Bilaspur is directed to hear all the parties concerned and to pass a fresh order considering the plea raised by the defendants therein including the petitioners herein within a period of three months from the date of receipt of copy of this order, keeping in view the order dated 1.4.2013 passed by this Court in WP No.3444 of 2005.

11. The writ petitions are⁶ allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-