

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (227) No. 573 of 2017**

Krishna Sakha Grih Nirman Sahkari Samiti Maryadit, Raipur,
 Regd. No. D.R./R.P.R. - 91, 82-83, through President Arun Kumar
 Verma, S/o Late Shri Vishnu Dutt Verma, aged about 60 years,
 Danganiya, Raipur, District Raipur (C.G.) Defendant No. 2

---- Petitioner**Versus**

1. Dhurandhar Builders and Developers through partner Shri Keshav
 Dhurandhar, R/o Sundar Nagar, Raipur, Tahsil and District Raipur
 (C.G.) Plaintiff/Appellant
2. Hemu Yadu, S/o Late Mahesh Yadu, LIG -20, Shailendra Nagar,
 Raipur, District Raipur (C.G.) Defendant No.1/Respondent No. 1

---- Respondents

For Petitioner: Mr. H.B. Agrawal, Senior Advocate with Smt.
 Prabha Sharma, Advocate.

For Respondents : Mr. Ashish Shrivastava, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****18/09/2017**

(1) Learned counsel for the petitioner would submit that in the appeal preferred by the respondents, petitioner had filed cross appeal, which has been decided by the first appellate Court without hearing the same on merits *whereas* it ought to have been decided along with the appeal on merits.

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

(3) I have heard learned counsel appearing for the parties and

perused the order impugned with utmost circumspection.

(4) Undisputedly, appeal preferred by respondent No.1 is pending consideration before the first appellate court, therefore, in order to avoid conflicting judgment and decree, cross appeal preferred by the petitioner ought to have been heard along with the said appeal, which has not been done and the same is clearly impermissible in law.

(5) In view of above settled principle of law, the impugned order dated 20.07.2017 passed in Civil Appeal No.12-A/17 is set aside. The appellate Court is directed to hear the cross appeal filed by petitioner on merits along with appeal preferred by the respondents.

(6) Accordingly, the writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-