

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2223 of 2019

Anita Agrawal W/o Bajrang Singhal Aged About 45 Years R/o M.I.G.
18, Chiranjivi Das Nagar, Housing Board Colony, Raigarh District
Raigarh Chhattisgarh. **---- Petitioner**

Versus

1. Chhattisgarh Housing Board, Through Commissioner, Head Office, Paryawas Bhawan, Sector 19, North Block Atal Nagar, Raipur Chhattisgarh.
2. Competent Authority Through Chhattisgarh Housing Board, Circle Bilaspur Chhattisgarh.
3. Executive Engineer, Chhattisgarh Housing Board, Raigarh Chhattisgarh.
4. Asset Manager, Chhattisgarh Housing Board, Raigarh Chhattisgarh.

--- Respondents

For petitioner – Shri Anup Majumdar, Advocate.
For respondents- Shri Sanjay Patel, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

05/07/2019

Heard.

1. Instant petition is against the order dated 2/03/2019 wherein order has been passed against Onkar Mal Agrawal and Vimla Agrawal and they were directed to vacate a house bearing MIG No.18 at Chiranjiv Das Nagar, Kohakunda, Raigarh.
2. Learned counsel for the petitioner would submit that the present petition is filed pursuant to the order dated 2/03/2019 which too was passed against deceased Onkar Mal Agrawal and Vimla Agrawal who was alive whereby they have been directed to pay an amount of Rs.29,85,580/-. It is contended that the petitioner is the daughter-in-law of Onkar Mal Agrawal. It is stated the house was allotted to Onkar Mal Agrawal and Vimla Agrawal, out of which the half of the amount of consideration of Rs.3,99,917/- or odd was paid. Subsequently, due to

the flood the house was merged. Consequently, deceased Onkar Mal Agrawal who was primarily managing the affair could not pay the rest of the installment. Eventually which resulted into order dated 2/03/2019. It is further submitted that the order is passed against persons one of them was dead and therefore is a nullity and could not be executed consequently as on the date of passing of the order one of the person Onkar Mal Agrawal was dead. He further submits that the cost of the house was Rs.3,99,917/- and out of which 50% has already been paid whereas the recovery notice served wherein demand of Rs.29,85,580/- has been made that too against the dead person.

3. Perusal of the order dated 2/03/2019 filed as Annexure P-1 would show that it was passed on 2/03/2019 against Onkar Mal Agrawal and Vimla Agrawal out of them admittedly Onkar Mal Agrawal was dead. The order has been passed by the competent authority C.G. Housing Board. The Housing Board has passed the order under the Act C.G. Grih Nirman Mandal, Adhiniyam, 1972 and order has been passed by the quasi judicial authority. Therefore, the order which has passed against the persons one of them is dead it would be nullity. Consequently, order dated 2/03/2019 is set aside. The respondents shall be at liberty to initiate fresh action against the legal representative of the allottee and who in turn shall also be at liberty to raise all the grounds including the ground about the consideration paid which was primarily focused in this petition.

4. In the result, petition is allowed. Order dated 2/03/2019 is quashed on the ground as aforesaid.

Sd/-

(Goutam Bhaduri)

JUDGE

