

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3544 of 2018**

- Gore Lal Dubey S/o Shri Chandrika Prasad Dubey Aged About 68 Years R/o In Front Of Luthra Complex, Balram Takies Road, District- Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Cooperative Societies, Mantralaya, Mahanadi Bhawan, New Raipur, District- Raipur, Chhattisgarh.
2. The Joint Registrar Cooperative Societies, Raipur, District- Raipur, Chhattisgarh.
3. College Ward Cooperative Society Limited Bearing Registration No. DRP/RPP/29 Through Its President/secretary, Sunder Nagar, Raipur, Chhattisgarh.
4. Shri Amit Pandey S/o Late Dr Rajendra Pandey R/o Plot No. 13 Sunder Nagar, Raipur, District- Raipur, Chhattisgarh.
5. Board Of Revenue Chhattisgarh Bilaspur, Through Its President, Board Of Revenue, Bilaspur, Chhattisgarh.

---- Respondent

For Petitioner : Shri Faiz Kazi, Advocate.
 For Respondent/State : Shri HS Ahluwalia, Deputy AG.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****14/01/2019 :**

1. The petitioner purchased the subject plot from the Cooperative Society in 1974, however, on his failure to raise construction over the land, the

sale deed was cancelled on 5.9.1980 and thereafter the plot was sold to the ancestors of respondent No.4. The matter travelled up to the Board of Revenue at the instance of the petitioner and the Board of Revenue passed an order on 3.9.1991 allowing the petitioner's appeal to set aside the order passed by the Society to cancel the petitioner's sale deed. Resultantly, the sale deed in favour of the petitioner was declared valid and the subsequent allotment in favour of father of respondent No.4 was illegal.

2. The father of respondent No.4 preferred a Writ Petition No.1883/1992 in which initially interim order was passed in his favour but in due course, the writ petition was dismissed for want of prosecution on 28.7.2005.
3. In this Writ Petition, the petitioner seeks direction to the respondents to hand over possession of the subject plot.
4. The Writ Petition must fail for twin reasons. Firstly, a writ petition seeking delivery of possession of the land is not maintainable because such prayer is to be made in a duly constituted suit where rights and liability of the parties including the rights crystallized in favour of any of the party due to operation of law of limitation would be considered. Secondly, even if the petitioner became entitled to make prayer for recovery of possession only after dismissal of the Writ Petition No.1883/1992 on 28.7.2005, thereafter also the writ petition has been preferred after about 13 years. Thus the Writ Petition suffers from unexplained delay and laches.

5. Accordingly, the Writ Petition deserves to be and is hereby dismissed.

However, if the petitioner prefers a suit for recovery of possession, the same shall be considered by the trial Court in accordance with law.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve