

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 6830 of 2009

Chhattisgarh Grih Nirman Mandal (Constituted under Chhattisgarh Grih Nirman Mandal Adhiniyam, 1973) through the Executive Engineer, Chhattisgarh Housing Board, Division Jagdalpur, District- Bastar (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh through Principal Secretary, Department of Revenue, Dau Kalyan Singh Bhawan, Raipur (CG)
2. Collector, District-Raipur (CG)
3. Additional Collector, Raipur, Competent Authority, Raipur Urban Agglomeration, District- Raipur (CG)
4. Phulbatia, D/o Samaru, aged about not known, R/o Village Kota, District-Raipur (CG)

---- Respondents

For Petitioner	:	Shri Pranjal Shukla
For State/Respondents No. 1,2 & 3	:	Shri Alok Bakshi, Addl. A.G.
For Respondent No. 4	:	Ms. Laxmeen Kashyap, Advocate

SB: Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

05/08/2020

1. The petitioner- Housing Board has filed this petition assailing correctness and validity of order dated 25.11.2002 passed by respondent No.3, the Additional Collector, Raipur in its capacity as the Competent Authority under the Urban Land (Ceiling and Regulation) Act, 1976.
2. Briefly stated, the facts are that the petitioner is a Housing Board constituted under Chhattisgarh Grih Nirman Mandal Adhiniyam, 1972. Ceiling proceedings in respect of the land belonging to respondent

No.4 were drawn by respondent No.3 as competent authority and in those proceedings, in respect of the disputed land, an order declaring some of the lands of respondent No.4 as surplus was passed. These lands which were declared surplus by the competent authority were, later on, allotted to the petitioner-Housing Board for the purpose of construction of houses.

3. However, later on, respondent No.4 raised a dispute to the effect that though the lands were declared surplus by the competent authority, compensation was not awarded to respondent No.4. On such application being filed, respondent No.3 passed the impugned order on 25.11.2002 directing that the land in dispute be reverted back to respondent No.4. This is under challenge before this Court.
4. Without entering into merits of the order as to whether merely on account of non-payment of compensation, land could be directed to be reverted by the competent authority, foremost submission of learned counsel for the petitioner is that the impugned order suffers from utter violation of principles of natural justice inasmuch as, without affording any opportunity of hearing to the petitioner, the impugned order was passed. He would submit that the land of respondent No.4 which was declared surplus was, later on, allotted to the petitioner -Housing Board. Therefore, no order could be passed adverse to the interest of the petitioner without affording an opportunity of hearing.
5. Learned counsel for the respondent could not dispute this factual assertion made by the petitioner in the writ petition that before passing the impugned order, the competent authority did not afford any opportunity of hearing to the petitioner. It is also not in dispute and is, in fact, clearly borne out from the records of the case that the land in dispute was allotted to the Housing Board.
6. If that be so, the impugned order is void and non-est as it is in blatant violation of principles of natural justice. Housing Board was necessary

party in the matter. If, at all, the competent authority had formed the view that for want of payment of compensation/proper compensation, the land was liable to be reverted in favour of original land holder/respondent No.4, it was incumbent in law to afford an opportunity of hearing to the petitioner to show cause against such an opinion. The matter required a proper enquiry. This having not been done, impugned order is liable to be set aside only on the ground of violation of principles of natural justice.

7. Accordingly, impugned order dated 25.11.2002 is set aside. The matter is, however, remitted to the competent authority. The competent authority shall issue notice to the petitioner as well as to the respondent No.4- Phulbatia. It shall afford both the parties proper opportunity to lead necessary documentary evidence. After hearing both the parties, the competent authority shall decide the matter one way or the other.
8. It is made clear that this Court has not commented upon merits of the claim of respondent No.4. Equally, it would be open for the petitioner -Housing Board to raise all the defences as are available to it under the law against prayer made by respondent No.4 for reversion of land.
9. Taking into consideration that it is an old matter, the competent authority shall decide the matter as early as possible.
10. The petition is accordingly allowed in terms of the direction issued herein-above. There shall be no orders as to costs.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge