

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 992 of 2015

- Smriti Grih Nirman Co-Operative Society Limited Smriti Nagar, Junwani Bhilai, Tahsil And District Durg, Chhattisgarh Through The President / Chairman Rajeev Choubey, Aged About 43 Years, S/o Shri B.K. Choubey, R/o Smriti Nagar, Junwani, Bhilai, Thasil and District-Durg Chhattisgarh, Chhattisgarh

---- Petitioner

Versus

- Smt. Pramila Chandekar, W/o E.D. Chandekar, Aged About 64 Years R/o House No. 180, Ward No. 18/23, Gali No. 4, Deepak Nagar, Durg, Tahsil And District-Durg, Chhattisgarh.

---- Respondent

For petitioner	:	Mr. Pranjal Shukla on behalf of Mr. Jitendra Pali, Advocate.
For respondent	:	Mr. P.R. Patankar, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

16/03/2020

1. By this petition the order dated 6.5.2015 passed by the Chhattisgarh State Co-operative Tribunal, Bilaspur in appeal case No.49/2015 has been challenged.
2. It is submitted that respondent is a member of the petitioner society, she applied for allotment of a residential plot, for which she has paid the price in installments between 1981-1987. The plot could not be allotted to the respondent, therefore, she filed a complaint under Section 64 of the Chhattisgarh Co-operative Societies Act, 1960 before the Sub-Registrar Cooperative Societies, Durg. The Sub-Registrar has passed order dated 14.7.2011 in which prayer made by the respondent was allowed and the petitioner was ordered to transfer a plot in favor of the respondent and also to execute and register sale-deed in her favour. The petitioner then filed appeal against this order before the Joint Registrar, Cooperative Societies, Bilaspur, which was dismissed

and thereafter a Second Appeal was filed before Chhattisgarh State Cooperative Tribunal, Bilaspur and the same has also been dismissed. It is submitted that the petitioner side is not at any fault. The respondent side should have been vigilant and after making payment of the installments for allotment plot in her favor, it was on her part to apply for transfer of plot in her favor, in which she failed and the plot that was intended to be transferred to the respondent, has been transferred to somebody else, therefore, the petitioner is not in a position to make transfer of said plot in her favour. The respondent has no entitlement for the order passed in her favor because the complaint filed by the respondent under Section 64 of the Act, 1960 was beyond limitation. Hence, it is prayed that petition be allowed and the impugned order be set aside.

3. Learned counsel for respondent submits that the Deputy Registrar, the Joint Registrar and also the learned Tribunal have not committed any error in passing the order in favor of the respondent. It is not disputed that the respondent is a member of the petitioner society and that she had applied for allotment of a plot in her favor for which she has paid the entire consideration amount. It is submitted that it was the duty of the petitioner side to send intimation to the respondent and take steps for transfer of plot as soon as final installment and development charges were paid. The last payment was made by respondent in the year 1987, but when no action was taken by the petitioner side for transfer of plot till the year 1991, then the respondent made a representation, which has remained unanswered, and therefore, the respondent felt compelled to file complaint and consequently, the complaint was filed. It is a case of gross inaction on the part of the petitioner for which they are liable to compensate the respondent. The learned Tribunal has given alternative relief also that in case petitioner is not in a position to transfer the plot in favor of the respondent, then on application of respondent the petitioner shall make payment as directed. Hence, there is no error or illegality in the orders passed by the authorities below. The petition being devoid of substance is liable to be dismissed.
4. I have heard both the parties and perused the documents on record.

5. In the complaint filed before the Deputy Registrar, Cooperative Societies, Durg. The petitioner side had submitted reply in which there was no objection on the point of limitation, therefore, the complaint was entertained and order was passed. Similarly there was no such challenge before the Joint Registrar. The question of limitation has been raised for the first time before this Court in this petition, which cannot be entertained. The learned Tribunal in the impugned order has appreciated the evidence in the inquiry and on that basis, it is held that the complaint filed by the respondent was within limitation.
6. On the basis of the situation that is not disputed by both the parties, it is a clear case where the petitioner failed to transfer a plot subsequent to deposit of the entire consideration amount and also the development charges as demanded. No reasonable explanation has been offered from the side of petitioner explaining the circumstances under which the plot, which was intended to be transferred to respondent, was transferred to somebody else. Therefore, there is no ground on which the petitioner has an entitlement to contest claim of the respondent. The learned Deputy Registrar, the Joint Registrar and finally the Tribunal have correctly passed the orders and it is the learned Tribunal who has also given an option to the petitioner side, which may be resorted to if petitioner is not in a position to transfer a plot in favor of the respondent.
7. In view of above, I do not find any substance in this petition, the same is liable to be dismissed and it is hereby dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge