

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1574 of 2021

Chhattisgarh Housing Board, Through Executive Engineer, Division 1,
Kabir Nagar, Raipur, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through Secretary, Revenue Department, Mahanadi Mantralaya, Naya Raipur, Atal Nagar, District Raipur Chhattisgarh.
2. Competent Authority Under The Urban Land (Ceiling And Regulation) Act 1976, Collectorate, Raipur, District Raipur Chhattisgarh.
3. Collector, Raipur, Chhattisgarh.
4. Ghanshyam Sahu, S/o. Paul Singh Sahu, Aged About 62 Years, R/o. 21, Veer Savarkar Nagar, Sondongari, Raipur, District Raipur Chhattisgarh.

---- **Respondents**

For Petitioner	:	Mr. Sanjay Patel, Advocate
For State/Respondents No. 1 to 3.	:	Ms. Richa Shukla, Dy. Govt. Advocate
For Respondent No.4/ Caveator	:	Mr. Ravindra Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

18.03.2021

Heard

1. Learned counsel for the petitioner would submit that the order impugned dated 26.02.2018 has been passed whereby the competent authority under the Land Ceiling has directed to return the land bearing Khasra No.658 admeasuring 7290 sq.ft. to the respondent No.4. It is stated that according to the Housing Board initially the owner of the said land was Phul Singh. Under the Urban Land (Ceiling & Regulation) Act, 1976 (*for short "the Act, 1976"*) initially the notification under Section 10(1) was published on 28.01.1984 thereafter final notification under Section 10(3) was published on 17.05.1985. The Housing Board subsequently deposited compensation on 31.12.1988 and the possession of the land

Khasra No.658 admeasuring 7290 sq.ft.was handed over to the Hosing Board by Annexure P-3. He would submit that in a subsequent proceeding the respondent No.3 has filed an application under Section 3(2) of the Urban Land (Ceiling & Regulation) Repeal Act, 1999 before the competent authority. Though the said land was in possession of the petitioner Hosing Board, the impugned order dated 26.02.2018 has been passed without giving any opportunity of hearing to the Housing Board. Therefore, at this stage, the order dated 26.02.2018 may be set aside and the matter be remanded back to the competent authority who is discharging the duty under the Act, 1976 to decide the case afresh after giving opportunity of hearing to the petitioner.

2. Learned counsel for the respondent No.4 would submit that in the meanwhile certain sale has been executed in respect of the land and there was de-notification carried out in the year 1999.
3. In any case according to Annexure P-4 which has been placed on record would show that the petitioner came into the possession of land on 25.08.1989 which would be subject to verification of facts as it has been disputed by the respondent No.4.
4. The respondent No.4 contended that de-notification has been carried out in respect of the land bearing Khasra No.658 admeasuring 7290 sq.ft. Therefore, these facts are required to be adjudicated afresh. The order dated 26.02.2018 however would show that the Housing Board was not heard before such order was passed. If the Housing Board claims that they were in possession of the land then it also required to be established before the competent authority under the Act, 1976. Consequently, prima facie, looking into the facts, the disputed facts are required to be adjudicated and the order dated 26.02.2018 was passed without hearing the petitioner. After perusal of the documents, it shows that the petitioner has a right to be heard. Consequently, the order dated

26.02.2018 is set aside. The matter is remanded back to the competent authority under the Act, 1976 to decide the application of the respondent No.4 afresh after giving opportunity of hearing to both the parties. The parties shall also be entitled to file the documents to place a subsequent facts and events which has occurred during the course of time.

5. Since the respondent No.4 claims to have sold the property and has executed sale in favour of one Sudhir Thakur, S/o. Ashok Thakur; therefore, he would also be interested party to be heard. The parties before this petition shall appear before the competent authority under the Act, 1976 and thereafter the subsequent purchaser shall also be noticed and after hearing all the interested parties the subsequent order may be passed.
6. In view of the above, the petition is allowed to the above extent.

Sd/-
(Goutam Bhaduri)
Judge

Aks