

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1513 of 2021

- Nab Kumar Mandal S/o Late Shri Chandicharan Mandal Aged About 61 Years R/o Dr. Poornima Mandal, Dayalband, Main Road, Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Collector, Bilaspur, Chhattisgarh
2. The Collector District- Bilaspur, Chhattisgarh.
3. Tahsildar Bilaspur, Chhattisgarh
4. M/s M.S. Soni Architect And Builders, Through Director, Mr. M.S. Soni, S/o Late Shri Lakhan Lal Soni, R/o Jabrapara, Pathak Bageecha, District- Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner : Ms. Anuja Sharma, Advocate
For State : Mrs. Sunita Jain, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17.03.2021

Heard

1. Learned counsel for the petitioner submits that the petitioner who is a senior citizen is running from pillar to post for execution of an order passed under the RERA whereby the recovery of Rs. 13,11,392/- has been ordered. It is further submitted that the recovery proceedings are being carried out through the issuance of Revenue Recovery Certificate. As such, the petitioner would be again at the mercy of the Recovery Authorities i.e. the Collector District Bilaspur and despite several follow up and the letter, the Authorities have turned deaf ears. She further submits that the Authorities Collector and the Tehsildar Bilaspur may be directed to execute the order within a time frame so that the eventual fruit of the order is carried out.
2. After perusal of the order dated 19.06.2019 (Annexure P/1) which is passed under the Real Estate (Regulation and Development) Act, 2016 [henceforth referred as 'the Act of 2016'], the order purports that the amount of Rs. 13,11,392/- is to be recovered from the respondent No. 4 and RRC was directed to do the same.

Section 40 of the Act of 2016 provides for recovery of interest or penalty or compensation and enforcement of order. The documents filed along with the petition shows that though the recovery of payment of Rs. 13,11,392/- was ordered on 19.06.2019 till date it has not been recovered and Annexures P/2 & P/3 show that the petitioner had followed up the issue with the Collector Bilaspur. The Act of 2016 has been made to protect the interest of the consumer in the real estate sector and to establish and adjudicate mechanism and speedy dispute redressal. It appears that despite the orders are in favour of the petitioner by an order dated 19.06.2019 wherein the recovery order has been made which has been directed to be recovered through RRC, the same is not been materialized. In a result the fruits of the order still remains at the bay which is against the object of the Act of 2016. Under these circumstances since the considerable time has been passed since year 2019 as on date, the respondents No. 2 & 3 i.e. Collector and the Tehsildar are directed to execute the order of recovery passed by the RERA dated 19.06.2019 within a further period of 60 days from the date of receipt of copy of this order. It goes without saying that in case of any resistance the Authority shall be free to adopt the coercive method for recovery of the amount by resorting to provision under Sections 146 & 147 of the Land Revenue Code 1959.

3. With the aforesaid observation/ direction, the writ petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge