

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2373 of 2021

- Ram Kumari Kaushik W/o Santosh Kaushik Aged About 41 Years R/o Ward No. 7, Chakarbhatha Campus, Nagar Panchayat Bodri, Tahsil Bilha, District Bilaspur Chhattisgarh.

---- **Petitioner**

Versus

1. Kiran Bhajgawali W/o Shri Rajesh Bhajgawali R/o Gahu Badi, Shikhar Colony, Darripara, Ambikapur , District Surguja Chhattisgarh
2. Dhara Infrabuild Private Limited Through Directors Lavjit Sharma And Kalpana Soni, Office No. 3, 2nd Floor, CLC Plaza, Mangla Chowk , Bilaspur , District Bilaspur Chhattisgarh.
3. Kalpana Soni Dhara Infrabuild Private Limited Office No. 3, 2nd Floor, CLC Plaza , Mangla Chowk , Bilaspur , District Bilaspur Chhattisgarh.

---- **Respondents**

For Petitioner : Shri Harshwardhan Parganiha, Advocate

For Respondent No. 1 : Shri Shrijan Shukla, Advocate

For Respondent No. 2 : Shri R.S. Marhas, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23.07.2021

Heard

1. The instant petition is against the order dated 04.03.2021 which is passed by the Appellate Authority under the Real Estate (Regulation and Development) Act, 2016. The challenge is also to the execution proceeding which is being carried out pursuant to the original order of the RERA dated 27.02.2021.
2. Learned counsel for the petitioner would submit that the Appellate Tribunal should have gone into the merits of the case against the original order and instead cursorily dismissed the appeal on the ground that it is delayed and

barred by time. He further submits that the original order was passed on 27.02.2021, consequently, the petition was preferred before this Court as the Appellate Tribunal was not functional at that time. He would further submit that the execution proceeding are being carried out pursuant to the original order dated 27.02.2021 which is also required to be stayed as otherwise the merits of case would be defeated.

3. Learned counsel for respondent No. 2 objected the prayer and submits that alternative remedy is available under Section 58 of the Real Estate (Regulation and Development Act, 2016) to file an appeal.
4. Having considered the submission of the parties, the order under challenge is passed by the Appellate Authority on 04.03.2021 (Annexure P-1), Section 58 of the Real Estate (Regulation and Development) Act, 2016 provides that the person aggrieved by decision of the appellate authority may file an appeal to the High Court, therefore since the alternative statutory remedy is available, this writ petition would not be maintainable. I am not inclined to go into the merits of the proceeding of the execution as the execution is for compliance of original order passed by the RERA. The petitioner may avail the alternate statutory remedy of filing an appeal if so advised.
5. In view of this, the petition sans merit is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Jyoti