

(2012) 07 P&H CK 0242

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 10687 of 2012

The Shivalik Environ Cooperative
House Building Society Ltd.,
Saketri

APPELLANT

Vs

J.S. Cheema and Others

RESPONDENT

Date of Decision: July 17, 2012

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Advocate: Deepak Arora, for the Appellant;

Judgement

Ranjit Singh, J.

This writ petition is filed by a registered Society for quashing the order dated 12.12.2011 (Annexure P-10) passed by respondent No. 3, i.e., Financial Commissioner & Principal Secretary to Government of Haryana, whereby he has dismissed the revision filed by the petitioner-Society while upholding the orders passed by the Deputy Register and that of the Assistant Registrar. This Society was registered in the year 1990 under Haryana State Cooperative Societies Act, 1984. As per the Society, it gave publication in the "Indian Express" calling upon all members to report to the Society's office with the details of payments, receipts, entitlement certificate, if any, and other relevant documents to complete the final list of eligible members of the Society by 20.7.1997. Subsequently, in the year 1999, a public notice was issued in "The Tribune". The list of members established by Board of Administrators would be displayed and any person having objection may contact with proof of payment upto 25.3.1999. It was also stated that no application thereafter would be entertained. On 1.9.1999, Society gave a notice in "The Tribune" to the public that application on the prescribed proforma is available in the Society's office and the list of persons is under scrutiny. Thereafter, on 15.7.2004 resolution was passed by the Society that the cases of pending applicants, who did not possess any documentary proof, should be rejected and no fresh application would be entertained. Respondent No. 1 filed an application before the Assistant Registrar

praying for incorporation of his name as member of the Society. The petitioner-Society filed reply to the same on 20.1.2008. Assistant Registrar allowed this application on 17.2.2009 and also allowed the claim of respondent No. 1 in the land allotted to the Society and further directed the Society to incorporate the name of the respondent in the list of members. The Society appealed against this order before the Deputy Registrar, Cooperative Societies, Haryana, which was dismissed on 23.7.2010. The Society then filed a revision before the Financial Commissioner, who has dismissed this revision and accordingly the petitioner-Society has filed this writ petition before this court.

2. The learned counsel for the petitioner has raised three-fold submissions before me. He would first challenge the jurisdiction of the respondent to pass this order and the direction to include the name of the respondent as his prayer was limited only for being so incorporated. He would also urge that the entitlement slip was issued by Balwan Singh at a time when he was not holding an office in the Society and could not have been relied upon. It is urged that the payment on the basis of forged slip has been relied upon to allow the claim of the respondent, which is unjustified.

3. Financial Commissioner has examined all the submissions and had gone through the record available on the file. Respondent No. 1 had furnished the list of the members of the Society (Annexures R1/1) before the Financial Commissioner, where name of the respondent was shown at Sr.No. 196. List was finalised of the cases of unidentified members as on 31.1.2002 and this had also shown the name of respondent at Sr.No. 17 amongst the pending cases. Respondent No. 1 subsequently submitted a proof of his payment of Rs. 1,20,000/-vide photocopy of Receipt No. 998 dated 3.9.1992, which was issued in his favour, and copy of the duplicate entitlement certificate dated 3.9.1992/4.4.2008. On the basis of these documents, the Assistant Registrar, Panchkula had decided the claim of respondent No. 1 in his favour. The appeal was dismissed being not maintainable. What weighed with the Deputy Registrar was that this appeal was filed through a person, who was not competent to sue or to be sued on behalf of the Society as he was not authorized by the Managing Committee. Reference is also made to order passed by this court in respect of same petitioner Society, where some directions were issued to the Society to determine the authenticity of the receipt purportedly issued by the petitioner-Society in case of P.K.Gupta. The Financial Commissioner reproduced this order in the impugned order. Based on this material, he agreed with the finding recorded by the Assistant Registrar. The issue is put to challenge purely on the factual finding returned by all the authorities and so would not call for any interference in exercise of writ jurisdiction. The same is accordingly dismissed.