

Court No. - 10

Case :- WRIT - C No. - 26178 of 2023

Petitioner :- Jai Prakash Bhati And 14 Others

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Arvind Singh, Akshay Raghuvashi

Counsel for Respondent :- C.S.C., Kaushalendra Nath Singh

WITH

Case :- WRIT - C No. - 23020 of 2023

Petitioner :- Aims Promoters Pvt. Ltd.

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- B.K.Singh Raghuvanshi, Akshay Raghuvashi

Counsel for Respondent :- C.S.C., Ankur Agarwal, Kaushalendra Nath Singh, Nikhil Kumar, Prashant Kanha

Hon'ble Kshitij Shailendra, J.

1. Heard Shri R.K. Ojha, learned Senior Counsel assisted by Shri Akhay Raghuvanshi, learned counsel for the petitioners in Writ C No.26178 of 2023, Shri Ashutosh Shukla, learned counsel holding brief of Shri B.K.S. Raghuvanshi, learned counsel for the petitioner in Writ C No.23020 of 2023, learned Standing Counsel for respondent nos.1, 2 and 4 in both the petitions, Shri Rhythm Gupta, learned counsel holding brief of Shri Kaushlendra Nath Singh, learned counsel for respondent no.3 in both the petitions, Shri Ankur Agarwal, learned counsel for respondent no.6 in Writ C No.23020 of 2023 and perused the record.

2. Since both these petitions contain almost identical prayers and the matter has come up before this Court on two earlier occasions, the Court finds it appropriate to set the controversy at rest by disposing off these matters taking care of interest of both the

parties.

3. The petitioners are residents of Aims Golf Avenue Apartment and it appears that they had some grievances with regard to registration of Society namely Aims Golf Avenue Apartment Owners Association. Certain complaints were made before the Chief Executive Officer, NOIDA Authority as well as Deputy Registrar, Firms, Societies and Chits, Meerut, and, at one point of time, by order dated 09.12.2022, Certificate of Registration which was issued on 24.12.2021 was cancelled by the Deputy Registrar.

4. Challenging the aforesaid order dated 09.12.2022, the Association filed Writ C No.39218 of 2022 (Aims Golf Avenue Apartment Owner Association v. State of U.P. And 2 Others) which was disposed off by order dated 09.01.2023 directing the Deputy Registrar concerned to pass a fresh order, however, despite observing that the order impugned before the Writ Court was a non-speaking order, it was not set aside by this Court. Later on, pursuant to the order dated 09.01.2023, an order was passed by the Deputy Registrar on 04.03.2023 directing holding of elections under Section 25(2) of the Societies Registration Act, 1860 (hereinafter referred to 'the Act, 1860').

5. Challenging the order dated 04.03.2023, the promoter filed Writ C No.14388 of 2023 (Aims Promoters Pvt. Ltd. v. State of U.P. And 5 Others), in which, by an interim order dated 15.05.2023, the effect and operation of order dated 04.03.2023 passed by the Deputy Registrar, Firms, Societies and Chits, Meerut, was stayed and, later on, the writ petition was disposed off on 25.05.2023. This Court in the concluding portion of the order observed as such:-

"Shri I.P. Srivastava, learned Additional Chief Standing Counsel submits that because of a clerical oversight, the finding with regard to withdrawal/recall of the order dated 09.12.2022 was not transcribed. It is submitted that the Deputy Registrar shall withdraw the impugned order and pass a fresh order within a period of one week from the date of receipt of a certified copy of this order.

The writ petition is disposed of. "

6. It appears that taking into consideration the observation recorded in the order dated 25.05.2023, the Deputy Registrar passed another order dated 24.06.2023, by which, the directions for holding elections under Section 25(2) have again been issued.

7. It has been argued by Shri Ojha, learned Senior Counsel that the main issue which gave rise to initiation of proceedings was infact the cancellation of the registration of the Association, however, orders on different line are being passed by the Deputy Registrar directing holding of elections under Section 25(2) of the Act, 1860 leaving aside the issue of cancellation.

8. Learned counsel for all the respondents have, however, disputed the said contention and have argued that infact, order of cancellation dated 09.12.2022 being non-speaking order, it was withdrawn by order dated 24.06.2023 in furtherance and in compliance of the order of this Court. Reference to the operative portion of the order dated 24.06.2023 in which factum of withdrawal of order 09.12.2022 which was incorporated by the Deputy Registrar has been made.

9. The issue, therefore, arises as to when the order of cancellation of registration is not in existence, as on today, what is the effect of other directions contained in the order impugned dated 24.06.2023.

10. There appears to be some discrepancies with regard to filing of objections by the petitioners. I find that the jurisdiction of Deputy Registrar was invoked by the promoter and the complaints which were moved by the petitioners were addressed to the Chief Executive Officer, NOIDA Authority.

11. Be that as it may, since different rounds of litigation have already been completed and now the latest order dated 02.09.2023 has been issued by the General Manager (Project)/Election Officer directing holding of elections, the Court is not inclined to obstruct the election process as lawful formation of the Association would be in the interest of residents of the concerned Apartment, in which, approximately 500 flats exist.

12. The dispute with regard to formation of the Association or any other complaint has still been left open to be considered by the Election Officer as per notice dated 02.09.2023 whereby all the flat owners have been called upon to submit their complaint of any nature.

13. Shri Ojha submits that time limit fixed under the notice dated 02.09.2023 has already expired and, therefore, even if, now the petitioners approach the Election Officer/General Manger, their clams shall be rejected as beyond time/barred by limitation.

14. Considering the fact that these writ petitions were filed challenging the order dated 24.06.2023 passed by the Deputy Registrar, Firms, Societies and Chits, Meerut and the office order dated 02.09.2023 has been issued during pendency of these writ petitions, both the writ petitions are **disposed off** with the following directions:-

- (a). The election process initiated by the concerned Authorities shall not be stopped.
- (b). The time limit fixed under the order dated 02.09.2023 for filing objections/complaint is extended **upto 15.11.2023**.
- (c). The General Manager (Project)/Election Officer shall consider the objections of the promoters as well as flat owners/complainants.
- (d). The General Manager shall also call for the relevant reports/lists/records from the office of the Deputy Registrar, Firms, Societies and Chits, Meerut, (respondent no.4) while considering the objections of complainants.
- (e). The disposal of the complaint shall be made positively **before 15.12.2023**.

Order Date :- 28.10.2023
Jyotsana