

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Date of Decision:-02.07.2015

CWP No.18480 of 2010(O&M)

K.C. Gupta & Ors

.....Petitioners.

Versus

State of Haryana & Ors.

.....Respondents.

AND

CWP No.18562 of 2010(O&M)

K.C. Gupta & Ors

.....Petitioners.

Versus

State of Haryana & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. H.C. Arora, Advocate for the Petitioners.

Mr. Pardeep Parkash Chahar, DAG Haryana 1 to 3.

Mr. Anil Kshetarpal, Senior Advocate assisted by
Mr. Gunjan Rishi, Advocate for the respondent no.4-Society.

Ms. Kshitija Mittal, Advocate for
Mr. Pardeep Solath, Advocate for respondent no.5
(stated to have died).

None for the respondent no.6
(earlier represented by Mr. G.P. Vashisht, Advocate).

Mr. Partap Singh, Advocate for respondent nos.7.

Mr. P.S. Poonia, Advocate for respondent no.8.

Mr. Sumeet Goel, Advocate for respondent no.9-CBI.

Mr. Rajbir Sherawat, Advocate for respondent no.10.

JASWANT SINGH, J.(ORAL)

This common order shall dispose of both the aforesaid writ petitions since they involve common question of law and facts.

The petitioners are members of Madanpura Co-operative House Building Society Ltd.-respondent no.4, a private enterprise by the members which as after obtaining a licence from the Town and Country Planning Department developed an area of 19.168 acres on the outskirts of Panchkula city in village Madanpura, District Panchkula. 167 members including the petitioners were allotted plots in that colony. It is not in dispute that there was an additional area of half acre over and above the aforesaid licenced area, which was available with the society. It is also not in dispute that to date that area has not been developed for lack of proper permission from the department of Town and Country Planning, Haryana. Petitioners by filing this writ petition were seeking a vigilance/CBI enquiry into the allotments of plots to certain influential persons as noticed in the two enquiry reports placed on record. One of them has been attached as Annexure P-1 dated 11.06.2009 and D-1/3 dated 3.4.2013.

Upon notice apart from the official respondents some of the impleaded private respondents have also filed their reply.

During the proceedings before this Court on previous dates, the Secretary Co-operative Department, Haryana had appointed a four member Departmental Committee to enquire into the alleged irregularities/illegalities into the allotment of plots.

A comprehensive affidavit dated 31.07.2014 of Sh. Anand Saxena, Deputy Registrar(General) Co-operative Societies, Haryana has been placed on record. Along with the same the four member inquiry report dated 3.4.2013 has also been placed on record as Annexure D-1/3.

A perusal of the aforesaid inquiry report dated 3.4.2013 reveals that all the available plots on the licenced area stood exhausted on 24.06.2007 by allotment of a plot to the inducted member Sh. Hukam Chand. Subsequently, from the year 2007 onwards 09 new members were enrolled and allotted plots out of the aforesaid additional unlicenced area measuring approximately half acre. The said allotment has been held to be irregular and illegal and as per the statement made by the learned Counsel for the society, the said allotments have since been cancelled/stood withdrawn in the year 2013 vide resolution dated 19.05.2013. For ready reference relevant para of the report is extracted as below:-

“ Subsequently, from 2007 onwards nine new members were enrolled in the society after taking approval from A.R.C.S. Naraingarh and following person were enrolled in the society although there was no plot available with the Society:-

- 1. Smt. Laxmi Devi*
- 2. Sh. Manoj Jugial*
- 3. Sh. Saurabh*
- 4. Sh. Sunil Kumar*
- 5. Ms. Maninder Kaur*
- 6. Sh. Hari Singh Kataria*
- 7. Sh. Madan Gopal*
- 8. Sh. Harjit Singh*
- 9. Ms. Arti Dahiya*

Thereafter on 31.01.2009 in the managing committee

meeting Society resolved to allot 9 more plots out of the area available with the Society without getting approval from T & C Department as well as from Co-operative Department. In this very draw of plots the principle of seniority was not followed by the Society. So, it appears that to appease some of the influential persons named in enquiry of Sh. V.S. Kundu, IAS, system of draw was adopted and the Society failed to inform all the waiting members about draw and no concurrence of the waiting members was taken in this regard."

At the time of hearing it is not disputed that the allotment in favour of the father of respondent no.6 namely Sh. Hari Singh Kataria and the wife of respondent no.7 namely Ms. Arti Dahiya has since been cancelled. As regards the wife of respondent no.10, she concededly was one of the original allottees out of the 167 plots in the licenced area. Similar is the position with regard to the relatives of Mr. S.C. Sinha-respondent no.5. As regards the allotment in favour of wife of respondent no.8, it is also conceded that allotment was never made and was refunded her membership fee.

In view of the aforesaid developments it is apparent that in sum and substance the grievance regarding allotment to the relatives of the private respondents no longer survives. As regards the proposed action against the office bearers who had made such illegal allotments, it is pointed out that the then president Sh. S.C. Sinha-respondent no.5 has since died of heart attack. Therefore, no real purpose would be served to pursue in that regard.

Learned Counsel for the petitioners submits that the aforesaid additional half acre approximately of unlicenced area be ordered to be put to some useful common purposes so as to avoid any further irregular, illegal allotments to any influential person.

In response, learned Counsel for the Society is not averse to

such proposal. He assures the Court that the aforesaid additional area will be developed and put to common use as per resolution of the Managing Committee of the respondent no.4-Society. It is clarified that the resolution would only chose the nature of the common use.

With the aforesaid observations, both the writ petitions are disposed of as having been rendered infructuous. However, the respondent-society shall be bound by their stand lest they make themselves liable for being hauled up in contempt proceedings.

**(JASWANT SINGH)
JUDGE**

July 02, 2015
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