

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

(1) Civil Writ Petition No.20921 of 2011 (O&M)

Lt. Col. (Retd.) J.S.Kahlon

..... Petitioner

Vs.

State of Haryana and others

..... Respondents

(2) Civil Writ Petition No.22479 of 2011 (O&M)

Lt. Col. (Retd.) Tarlok Singh

..... Petitioner

Vs.

State of Haryana and others

..... Respondents

Date of Decision: 04.05.2015

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Lt. Col. (Retd.) J.S.Kahlon, Advocate/petitioner in person
(in CWP No.20921 of 2011).

Petitioner-Lt. Col. (Retd.) Tarlok Singh
through Sh. J.S.Kahlon, Advocate (in CWP No.22479 of 2011).

Mr. Sandeep S. Mann, Sr. DAG, Haryana for respondent No.1.

Ms. Kshitija Mittal, Advocate for
Mr. Pardeep Solath, Advocate for respondent No.2.

Respondent No.3/Lt. Col. (Retd.) L.S.Bedi in person
(in CWP No.20921 of 2011).

Respondent No.5/Lt. Col. (Retd.) L.S.Bedi in person
(in CWP No.22479 of 2011).

Mr. Rajinder Singh Malik, Advocate for Manhander Vihar
Co-Op. Housing Maintenance Society/respondent No.4
in CWP No.20921 of 2011 and
respondent No.6 in CWP No.22479 of 2011.

Mr. Pritam Singh Saini, Addl. A.G., Haryana for the impleaded
respondent-HUDA.

JASWANT SINGH, J. (ORAL)

This common order shall dispose of two aforementioned writ petitions as they emerge out of common facts involving similar issue.

CM No.5583 of 2015 in CWP No.20921 of 2011

This is an application filed by applicant/respondent No.4 for placing on record the written statement along with letter dated 10.10.2014 as Annexure R-4/1.

For the reasons mentioned in the application, duly supported by affidavit dated 25.04.2015 of Sh. I.V.S. Kang, Secretary of respondent No.4/ Society, the same is allowed.

CM No.5691 of 2015 in CWP No.22479 of 2011

This is an application filed by applicant/respondent No.5 for placing on record a letter of Senior Town Planner, Panchkula regarding addition/alteration.

For the reasons mentioned in the application, duly supported by affidavit dated 29.04.2015 of Lt. Col. L.S.Bedi (Retd.)/respondent No.5, the same is allowed.

Main Case(s)

Petitioner-Lt. Col. (Retd.) J.S.Kahlon (in CWP No.20921 of 2011) and petitioner-Lt. Col. (Retd.) Tarlok Singh (in CWP No.22479 of 2011) are allottees of Ground Floor Flats in a Multi Storeyed Complex comprising 332 Units, completed by Army Welfare Housing Organization (for short 'AWHO') at Sector 4, Mansa Devi Complex (M.D.C.), Panchkula, registered with Registrar, Cooperative Societies, Haryana in the name and style of Manhandar Vihar Cooperative Housing Maintenance Society, Panchkula (for short 'Society'). The said Units were meant for all ranks and retired as well as serving Army personnel.

The dispute, *inter alia*, is regarding alleged encroachment over common area and violation of sanctioned building plans by the two petitioners as per the complaint made by respondent No.3-Lt. Col. Bedi (in CWP No.20921 of 2011) and respondent No.5 in CWP No.22479 of 2011, also an allottee of a second floor Flat in the same Society. His complaint in that regard was referred for arbitration before the Assistant Registrar, Cooperative Societies, Panchkula under Section 102 of the Haryana Cooperative Societies Act, 1984 (for short '1984 Act').

The Arbitrator passed two separate orders in both cases of even date 09.09.2010 (**Annexure P-2**), allowing the application of Lt. Col. L.S.Bedi. The two petitioners then filed their respective appeals under Section 114 of the 1984 Act and the same vide two separate orders of even date 23.08.2011 (**Annexure P-1**) were dismissed. Hence, the aforesaid two writ petitions.

Over a period of time, rest of the disputes have faded into background and the only grievance remains regarding the violations and the encroachments, since Haryana Urban Development Authority (for short 'HUDA') on notice of such violations has also issued a Show Cause Notice to AWHO for resumption of the site. The stand of the AWHO is also for ensuring that the encroachments are removed and violations either compounded as per Rules or removed.

Since the power of ensuring that the constructions in the area are made but according to the sanctioned plans vests with the HUDA, on the oral request of the parties, HUDA through its Chief Administrator and HUDA, Panchkula through the Estate Officer, Panchkula are impleaded as respondent No.6 (in CWP No.20921 of 2011).

On the asking of the Court, Mr. Pritam Singh Saini, Addl. A.G., Haryana is directed to accept notices on behalf of the HUDA Authorities.

At the time of hearing, learned Counsel for all the parties are agreed that both the petitions can be disposed of with a direction to the Administrator, HUDA, Panchkula to depute a senior and responsible Officer to carry out a survey of the common areas of the Society and identify encroachments and violations, if any, and thereafter take appropriate action for removal of the encroachments and violations. The violations so detected, if can be compounded keeping in view the general interests of the Members of the Society, then the needful shall be done in the right spirit keeping in view the Regulations of HUDA. The necessary survey shall be completed within six months and thereafter in the next six month, appropriate action would be completed.

In view of the aforesaid agreed stand, ordered accordingly.

May 04, 2015
Gagan

(JASWANT SINGH)
JUDGE