

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

(1) CWP No. 1767 of 2013
Date of decision: 28.05.2015

Kewal Aggarwal
...Petitioner

Versus

State of Punjab and others
...Respondents

(2) CWP No. 1871 of 2013
Date of decision: 28.05.2015

Mohit Verma and others
...Petitioners

Versus

State of Punjab and others
...Respondents

(3) CWP No. 5352 of 2014
Date of decision: 28.05.2015

Santokh Singh
...Petitioner

Versus

State of Punjab and others
...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. M.S. Kang, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. D.V. Sharma, Sr. Advocate with
Mr. Harit Sharma, Advocate
for respondent No.11.

Jitendra Chauhan, J. (Oral)

The above writ petitions bearing Nos. 1767, 1871 of 2013 and 5352 of 2014 under Articles 226/227 of the Constitution of India have been filed for quashing of orders dated 03.05.2010, passed by respondent No.2 and order dated 20.11.2012, passed by respondent No.1.

The learned counsel for the petitioner submits that the respondent society has changed the site plan by carving out booths-cum-flats in the area, which was meant for parking area and open space, thereby adversely affecting the interest of the members of the society. The action was challenged and Assistant Registrar, Cooperative Societies, Ludhiana (East)- respondent no.4, accepted the prayer by setting aside Resolution No.4 dated 4.1.2006, vide Annexure P-1. The appeal against the order dated 04.01.2006 was dismissed by the Deputy Registrar, Cooperative Societies, Ludhiana-respondent no.3, vide Annexure P-2. However, the revision filed by the respondent society was illegally accepted by the Joint Registrar, Cooperative Societies, Patiala Division, Patiala-respondent no.2, which was upheld by respondent no.1, vide impugned order dated

20.11.2012 (Annexure P-4).

The learned counsel for the respondent opposes the writ petition on the ground that once the site plan has been approved by the General Body, the petitioner has no right to challenge the carving out of booth cum flats, sites and its allotment to its members.

I have heard the learned counsel for the parties and have gone through the case file and record carefully with their able assistance.

The society acts through a resolution passed in the General Body Meeting. The award of the Arbitrator shows that the shops were carved out by the General Body Meeting for the betterment of the society. The agenda was approved unanimously. The proposed map was sent to the office of Registrar. Thereafter, the then, Managing Committee allotted booth cum flats to various persons. The learned Arbitrator did not find any truth into the allegations made by the present petitioner, and rightly rejected the references, in both the writ petitions. There is no allegation that the previous management committee has acted malafidely and gave undue favour to the private respondents.

In Ashok Kumar Vs. Sita Ram, 2001(1) Apex Court Journal 681, in para No. 10, it has been held as under:-

“The position is too well settled to admit of any controversy that the finding of fact recorded by the final

Court of fact should not ordinarily be interfered with by the High Court in exercise of writ jurisdiction, unless the Court is satisfied that the finding is vitiated by manifest error of law or is patently perverse. The High Court should not interfere with a finding of fact simply because it feels persuaded to take a different view on the material on record.”

In para No. 17 of the above judgment, it has been held as under:-

“The question that remains to be considered is whether the High Court in exercise of writ jurisdiction was justified in setting aside the order of the Appellate Authority. The order passed by the Appellate Authority did not suffer from any serious illegality, nor can it be said to have taken a view of the matter which no reasonable person was likely to take. In that view of the matter there was no justification for the High Court to interfere with the order in exercise of its writ jurisdiction. In a matter like the present case where orders passed by the statutory Authority vested with power to act quasi judicially is challenged before the High Court, the role of the Court is supervisory and corrective. In exercise of such jurisdiction, the High Court is not expected to interfere with the final order passed by the Statutory Authority unless the order suffers from manifest error and if it is allowed to stand it would amount to perpetuation of grave injustice. The Court should bear in mind that it is not acting as yet another Appellate Court in the matter. We are constrained to observe that in the present case the High

Court has failed to keep the salutary principles in mind while deciding the case.”

Keeping in view the fact that the three quasi judicial authorities have scrutinized the case, this Court will not interfere in the functions of the society under the exercise of its jurisdiction. Both the writ petitions deserve to be dismissed. Accordingly, both the petitions No. 1767, 1871 of 2013 and 5352 of 2014 are dismissed.

28.05.2015

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(JITENDRA CHAUHAN)
JUDGE