

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 2425 of 2012 (O&M)
Date of decision: 21.01.2015

Satish Goel and others

... Petitioners

versus

District Registrar, Firms and Societies, Panipat and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. R.K. Gupta, Advocate, for the petitioners.

Mr. Keshav Gupta, Assistant Advocate General, Haryana.

Mr. O.P. Goyal, Senior Advocate, with
Mr. Randeep Singh, Advocate, for respondent No.2.

Mr. Anupam Gupta, Senior Advocate, with
Mr. Harkesh Manuja, Advocate, and
Mr. Viddharth Sharma, Advocate, for respondent No.3.

K.Kannan, J. (Oral)

The petitioner does not want to prosecute the writ petition and seeks for withdrawal. The respondent in the writ petition has no objection.

There is however, an application for impleadment filed at the instance of the Anup Garg who is admittedly a Member of the Society. He has an objection to the withdrawal, for according to him the writ petitioners' claims as Members is disputed and the 71 persons who were inducted as Members on 24.01.2012 was close on heels to an order passed by this Court in CWP No. 22615 of 2011 directing new election to take place. The order passed by the Registrar (Annexure P/8) already impugned with the writ petition did not conclude the issue of membership in favour of the petitioners. However, they were not allowed to participate in the elections and that was the grievance for the

petitioners to approach this Court. This Court had, allowed for a fresh election to take place on 10.02.2012 taking the inclusion of the 71 persons to be valid only for the purpose of elections but observing all the same that the validity of the inclusion will be subject to the final outcome of the writ petition. Since, the withdrawal is sought now, the applicant's objection is that the interim order that was already passed cannot be taken as legitimizing their membership.

Since the issue of membership has not been finally concluded through a judicial adjudication, it shall only be appropriate that the withdrawal of the writ petition, if permitted, ought not be taken as recognition of the petitioners as Members. The applicant before the Court who has the objection to the withdrawal shall be at the liberty to challenge the induction of the 71 Members including the three petitioners in this writ petition by means of appropriate legal action. The legal forum, in my view, would be the Civil Court, for, we are considering the issue of induction of Members on 24.01.2012, i.e. before coming to the force of 2012 Haryana Act. The adjudication shall be only before the Civil Court and if such a suit is filed, that would be no objection about the jurisdiction of the Civil Court to render such an adjudication. The right to vote for the persons whose membership is in question is not decided by me and it will be subject to any orders, that the Civil Court may issue in this regard.

The writ petition is permitted to be withdrawn, but, the petitioners will be bound by the observations made, as regards their status as members as not concluded, the same way as their entitlement to vote is not concluded. By the fact that the respondents in the writ petition were office bearers having no objection for the withdrawal of the writ petition, they will also be bound by any order that the Civil Court may pass. The court shall not in any way will be fettered by observations that have been made by this Court while passing interim orders in the above writ petition. The suit shall be filed, within a month from today. The pendency of the writ petition itself ought to be taken

as a period to exclude the period of limitation that could otherwise be placed against the petitioner.

21.01.2015

Kumud

(K.KANNAN)
JUDGE