

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.24841 of 2014
Date of decision:13.7.2016**

Om Parkash Sharma and others

...Petitioners

Versus

Principal Secretary to Government Haryana and others

...Respondents

CWP No.25741 of 2014

Kailash Chand Sharma

..Petitioner

Versus

Principal Secretary to Government, Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.S.S.Dalal, Advocate for the petitioners.
Mr.R.S.Doon, AAG, Haryana.
Mr.R.S.Sihag, Advocate for respondent No.5.

RAMESHWAR SINGH MALIK, J. (Oral)

This order shall dispose of two identical writ petitions bearing CWP No.24841 of 2014 (Om Parkash Sharma and others Vs. Principal Secretary to Government Haryana and others and CWP No.25741 of 2014 (Kailash Chand Sharma Vs. Principal Secretary to Government Haryana and others).

Feeling aggrieved against the order dated 15.9.2014 (Annexure P-6) passed by the Principal Secretary to Government, Haryana, Cooperation Department, petitioners have approached this Court by way of these two writ petitions under Articles 226/227 of the Constitution of India.

Notice of motion having been issued, reply by the contesting respondent was filed.

The only dispute between the parties is about the alleged non-payment of amount of their share by the petitioners at the appropriate time. When Assistant Registrar, Cooperative Society, Rewari, was seized of the matter, he passed the order dated 19.4.2012 (Annexure P-2) and the operative part thereof, reads as under:-

“Thus, I, Hardeep Singh Kang, Assistant Registrar, Cooperative Societies, Rewari, exercising the powers of the Registrar, Cooperative Societies, Haryana, Panchkula under Section 102-103 of the Haryana Cooperative Societies Act, 1984, orders that because of such disputes it can be that the society may not comply with all the formalities for obtaining licence from the Director General Town & Country Planning Haryana and the land may again be acquired by the Government. In that way it would be detrimental to the interest of all the members. Therefore, keeping in view of interest of all the members the remaining members are brought par with those 86 members as per the following formula:-

The amount spent by 86 members=

17 members x 72000=1224000

69 members x 45000=3105000

total amount 4329000/86=50337 per member

On Land Development 212232/86=2468 per members

In this way amount of Rs.50337+2468 =52805 alongwith cumulative interest from 21.07.1988 till date of its payment by adding Rs.4000 on account of litigation and other expenses shall be paid by each petitioner with the society within 90 days from the date of passing of this order, otherwise society may proceed further under the provisions of Haryana Cooperative Societies Act, 1984 for effecting recovery of this amount. There is no provision for charging revenue circle rate under the provisions of Haryana Cooperative Societies Act, 1984,

Rules and Byelaws. Therefore, the demand notice issued on 07.01.2012 is quashed. The order was reserved on 11.04.2012 and has been written today on 19.04.2012. All the parties be informed.”

The above-said order was challenged by the respondent-Society by way of appeal, which came to be allowed by Deputy Registrar Cooperative Societies, Gurgaon, vide order dated 13.8.2012 (Annexure P-4). Dissatisfied, petitioners approached the State Government by way of revision under Section 115 of Haryana Cooperative Society Act, 1984. Since in the meantime, some petitioners had made the payment by way of cheque of Rs.50,000/- per member, to the respondent-society, Principal Secretary to Government, Haryana vide his impugned order dated 15.9.2014 (Annexure P-6), dismissed the revision of the petitioners and directed the respondent-society to take a decision on the said amount as per law.

After hearing the learned counsel for the parties at considerable length and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that it would be in the interest of justice as well as in the interest of both the parties to resolve the issue right here, instead of again remanding the matter to any of respondent authorities or other agency. It is so said because the dispute is pending between the parties for the last more than two decades.

It is pertinent to note here that learned counsel for the petitioners himself has made a very fair offer that each petitioner shall pay the amount as assessed by the Assistant Registrar, Cooperative Societies, Rewari, vide his order dated 19.4.2012 (Annexure P-2), at the rate of Rs.52,805/- along with 10% interest for 10 years, within a period of three months. With a view to do complete and substantial justice between the

parties and striking a balance, this Court is of the considered view that the offer made by the learned counsel for the petitioners is very reasonable and well justified in the peculiar facts and circumstances of the case.

At this stage, learned counsel for the respondent-Society points out that petitioners never challenged the order dated 19.4.2012 passed by Assistant Collector, Cooperative Societies, Rewari (Annexure P-2), whereby they were directed to pay the amount of Rs.52,805/- along with cumulative interest from 21.7.1988 till its payment by adding Rs.4,000/- on account of litigation and other costs. Although, it is a matter of record, yet even if the petitioners are directed to pay the amount, in terms of the order dated 19.4.2012 passed by Assistant Collector, Cooperative Societies, Rewari, wherein no rate of interest has been specified, then in that situation, petitioners can be directed to pay interest at the rate of 6% only, which would amount almost to the same. Keeping in view the peculiar fact situation obtaining in these cases, instead of entering into further intricate issues of calculation in this regard, this Court is of the considered opinion that the fair offer made by the learned counsel for the petitioners deserves to be accepted.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the petitioners have been found entitled to pay the above-said amount along with interest @10% for a period of 10 years which shall be paid by the petitioners within a period of three months. Accordingly, petitioners in both the writ petitions are directed to pay an amount of Rs.52,805/-, each member along with interest @ 10% for a

period of 10 years and they shall pay this amount within a period of three months, by way of bank draft in the name of respondent-society, which shall be accepted by the respondent-society.

As rightly pointed out by the learned counsel for the respondent-society, since three members namely S/Shri Satbir Singh, Jagan Nath Sharma and Lal Chand have already paid the amount as per the decision of General Body of the respondent-Society, their accounts shall also be settled by the respondent-society, bringing them at par with the present petitions, so as to avoid any kind of discrimination against any member of the respondent-society.

Resultantly, with the above-said observations made, both the present writ petitions stands disposed of, however, with no order as to costs.

13.7.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE