

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

1. CWP No.8922 of 2000 (O&M)
Date of decision : 12.01.2017

Captain S.S. Panesar

...Petitioner

Versus

State of Haryana and others

..Respondents

2. CWP No.9352 of 2000 (O&M)
Date of decision : 12.01.2017

Shri R. Parsad and another

...Petitioners

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Abhishek Sharma, Advocate for the petitioner.
(In CWP No.8922 of 2000)

Mr. Amandeep Singh Talwar, Advocate for the petitioners.
(In CWP No.9352 of 2000)

Mr. D. Khanna, Addl. A.G. Haryana.

Mr. M.L. Sarin, Sr. Advocate with
Mr. Nitin Sarin, Advocate and
Mr. Ritesh Aggarwal, Advocate for respondent Nos.3 and 4.
(In both petitions)

Mr. Praveen Chander Goyal, Advocate

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of aforementioned writ petitions, whereby the order (Annexure P-6) dated 03.01.2002, has been challenged.

Contention of Mr. Abhishek Sharma, learned counsel appearing on behalf of petitioner in CWP No.8922 of 2000 is that the Society vide alleged resolution dated 25.10.1998 had expelled the membership of the petitioner. By invoking the provision of Section 114 of the Haryana Cooperative Societies Act, 1984, the petitioner preferred the appeal before the Deputy Registrar. The Deputy Registrar after conducting the proceedings found that expulsion was incorrect and relied upon the certain register or the Minutes of Book resulting into setting aside of the expulsion order.

He further submits that aggrieved party i.e. Society preferred revision petition before the Secretary to Government of Haryana Cooperative Department under Section 115 of the aforementioned Act which was not maintainable. Impugned order has been passed on the basis of No Objection given by the counsel representing the parties. No such objection was granted. Secretary has erroneously recorded the aforementioned submissions.

He further submits that there was no occasion for the Joint Secretary Cooperation, Haryana to remand the matter back to Registrar for hearing the matter afresh as both the parties, were given adequate opportunity to represent the case.

In CWP No.9352 of 2000, application bearing No.12579-CWP

of 2016 has been filed for bringing on record the LR's of petitioner No.1.

For the reasons stated in the application, which is duly supported by an affidavit, LR's of petitioner No.1 as mentioned in application are ordered to be brought on record for the purpose of prosecuting the present writ petition.

Accordingly, application is allowed.

Same contention has been adopted by Mr. Amandeep Singh Talwar, Advocate to contend that petitioner (since deceased) was also expelled and the matter was taken up before the Sub-Registrar for adjudicating and setting aside the expulsion order. However, during the interregnum, petitioner No.1 died and application for LR's is filed for the purpose of adjudication of the present writ petition.

Mr. M.L. Sarin, Sr. Advocate assisted by Mr. Nitin Sarin, learned counsel appearing on behalf of respondent Nos.3 and 4 submits that writ petition qua petitioner No.2 stands abated as no application for bringing on record the LR's has been moved. Had allotment been done to the members, perhaps it would have been done, in essence, surviving rights of the membership does not go to the Legal representatives.

He further submits that order under challenge is most innocuous. Matter has been remitted back to the Deputy Registrar. No separate affidavit of the counsel or of the petitioner regarding the proceedings of the Joint Secretary has been filed. Proceedings of the quasi-judicial authorities is equivalent to the proceedings of the Courts. In support of his contention, he has relied upon judgment rendered by Hon'ble Supreme Court in *State of Maharashtra Vs. Ramdas Shrinivas Nayak and*

another, AIR 1982 SC 1249, and thus urges this Court for dismissal of the writ petition.

In rebuttal, learned counsel appearing on behalf of petitioners had drawn the attention of this Court to Annexure P-7, which has been passed on filing of the revision petition wherein there was specific averments with regard to no consent being given to the counsel. In support of his contention, has relied upon judgment rendered by Hon'ble Supreme Court in *Himalayan Cooperative Group Housing Society Vs. Balwan Singh, 2015(7) SCC 373*.

I have heard learned counsel for the parties and appraised the paper book.

Shorn of the facts noticed above, but the facts remains that petitioner is aggrieved of the impugned order, whereby matter has been remanded back to the Deputy Registrar to look into the appeal filed under Section 114 of 1984 Act vis-a-vis expulsion of the members i.e. petitioner No.1 (since deceased) in CWP No.9352 of 2000 .

I do not deem it appropriate to ponder upon the merits and demerits of the matter as it would seriously prejudice and take away the valuable right of the parties. Both the parties shall be at liberty to take all possible pleas before the Deputy Registrar in pursuance to the appeal filed under Section 114 of the Act. Liberty is granted to move appropriate application for bringing on record the LRs of petitioner No.2. In case any such application is filed, the Society be given chance to reply and raise all possible objections. Deputy Registrar shall take into consideration all the factors and passed the order on the application. Objection qua impleadment

of the LR's of petitioner No.1 is also kept open which shall also be consider by the Deputy Registrar.

This Court is sanguine of the fact that the matter is pending in this Court since 2000. Concerted effort shall be made to decide the appeal as expeditiously as possible preferably within a period of four months, from the date of receipt of certified copy of the order.

Writ petition is disposed of in aforementioned observations.

12.01.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No