

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.1039 of 2017
Date of Decision: January 23, 2017

The Shivalik Environ Cooperative House Building Society Ltd., Panchkula

...Petitioner

Versus

The Additional Chief Secretary to Government, Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Jagdish Manchanda, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

Notice of motion.

Mr.Sandeep Singh Mann, Senior Deputy Advocate General,
Haryana accepts notice on behalf of respondent Nos.1 and 2.

The present writ petition has been filed under Article 226/227
of the Constitution of India seeking writ of certiorari for quashing the order
dated 18.11.2016 (Annexure P-6) passed by respondent No.1, whereby the
application filed by the petitioner for restoration of the revision petition, has
been dismissed.

Mr.Jagdish Manchanda, learned counsel representing the
petitioner submits that respondent No.3 has alleged that she had paid
Rs.30,000/- and Rs.20,000/- on different occasions to Balwan Singh.
Though no receipt was issued, but an entry in this regard was made in the
register of members. She also alleged that the petitioner-society purchased

the land and transferred the same to the petitioner, but despite that her name has not been entered in the list of members. Respondent No.3 filed an application to enroll herself as member of the society, to which reply was filed by the petitioner stating therein that she has claimed the membership on the basis of Rs.20,000/-deposited by her. It has also been averred in the reply that the society is a registered body, but denied that membership of the club was converted into member of the society. Various notices were sent to respondent No.3, but she did not pay any heed.

He further submits that respondent No.3 filed an appeal before the Deputy Registrar, which was entrusted to Assistant Registrar, Cooperative Society, Ambala. The said appeal was allowed vide order dated 9.4.2009 (Annexure P-3), against which revision petition was filed by the petitioner before the Chief Secretary. The matter was argued on 17.12.2010 and the order was reserved. The then Addl.Chief Secretary was transferred, but no notice for re-hearing was given to the petitioner-society and the case was dismissed in default for non-appearance of the counsel. Application for restoration of the revision petition was filed, but the same has also been dismissed vide Annexure P-6.

He also submits that no intimation qua dismissal of the revision petition was sent to the petitioner. Moreover, the Addl. Chief Secretary has also noticed in his order that the summon was sent. The petitioner came to know only when the execution and contempt petitions were filed. There was no intention of the petitioner not to appear and it was only due to bonafide reason and, thus, urges this Court for setting-aside the impugned orders.

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

Instead of pondering upon the merits and demerits of the matter, I deem it appropriate that the order 18.11.2016 (Annexure P-6) should be set aside. The restoration application filed in Revision Petition No.26 of 2-010 is required to be allowed as the Courts should not be so harsh in rejecting the application seeking restoration of the revision petition. The explanation given in the restoration application has not been adhered to.

Resultantly, the order dated 18.11.2016 (Annexure P-6) is set aside and the Misc.Application 16 of 2016 filed in Revision Petition No.26 of 2010 is allowed and the revision petition is restored to its original number. The Additional Chief Secretary to Government, Haryana, Cooperation Department, Chandigarh is directed to dispose of the revision petition on merits as expeditiously as possible.

With the aforementioned observation, the writ petition stands allowed.

January 23, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No