

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.28056 of 2013 (O&M)

Date of Decision: 22.05.2017

Arvind Kapila & Ors.

... Petitioners

VS.

State of Punjab & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE HARI PAL VERMA**

Present: Mr. KS Boparai, Advocate for the petitioners

Mr. Rajesh Bhardwaj, Addl. AG Punjab

Mr. Harit Sharma, Advocate for respondent No.2

Mr. AS Khera, Advocate for respondent No.4

Dr. Ashwani Prashar, Advocate respondents No.5,6,8 to 13

SURYA KANT, J. (Oral)

(1) The petitioners are members of respondent No.4-Society, namely, the Puncham Co-operative House Building Society Ltd. GMADA has allotted a plot to the said Society whereupon multi-storied apartments have been constructed. The petitioners are the allottees and occupants of those flats. The GMADA vide notice dated 21.10.2013 raised an additional demand of ₹ 20,54,06,925 against the Society towards the cost of land. While questioning the said notice, the petitioners have alleged that the then Managing Committee of the Society had taken full amount of land cost from them but such amount was misappropriated by the then Office-bearers of Managing Committee and was not deposited with GMADA.

(2) The petitioners thus seek an enquiry into the affairs of the Managing Committee of the Society so that misappropriation of funds can be

established and the ex-office bearers are compelled to account for the amount said to have been deposited by the petitioners.

(3) The ex-office bearers/former members of the Managing Committee of the Society, who are party respondents, have their own story to tell. They allege that the petitioners are defaulters and have not deposited the due amount with the Society as a result of which GMADA has resumed the site.

(4) Having heard learned counsel for the parties and after perusing some of the documents, we are satisfied that the allegations made by the petitioners require dispassionate probe by a senior Officer of the Cooperation Department as the Society being a Group Housing Cooperative Society, the matter falls within the jurisdictional ambit of the Registrar, Cooperative Society or such other authorities of the said Department.

(5) The writ petition is accordingly disposed of with a direction to the Registrar, Cooperative Societies to hold a fact-finding enquiry either himself or depute an Officer not below the rank of Joint Registrar who shall hear both the parties; scrutinize the records and determine whether or not there is any substance in the allegations leveled by or against the petitioners. The said enquiry authority shall, in specific, determine whether or not the land cost has been deposited by the petitioners and other members. Follow up action will depend upon the outcome of the enquiry. It is directed that the enquiry shall be conducted within four months from the date of receipt of certified copy of this order.

(6) The parties shall be at liberty to produce their record but in addition, the enquiring authority shall summon the relevant records before determining the controversy.

(7) Till such controversy is settled, dispossession of the petitioners and other members, shall remain stayed.

(Surya Kant)
Judge

22.05.2017
vishal shonkar

(Hari Pal Verma)
Judge

1. Whether speaking/reasoned?	Yes
2. Whether reportable?	No