

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.20399 of 2017

Date of Decision: 8th September, 2017

M/s Pavani Buildwell Pvt. Ltd.

....Petitioner

Vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Alok Mittal, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner, who happens to be a builder is seeking a mandamus for directing the respondents not to stop the petitioner and its employees from withdrawing the maintenance services being provided to the residents of flats of Garden Heights, Patiala on account of non-payment of maintenance charges though an order of injunction has been passed in their favour by the Civil Court, Patiala on 24.10.2016.

The facts given to me are that the petitioner constructed two towers i.e. tower A & B, club building, shopping area etc. The flats are being occupied by the allottees. The allottees have constituted a Resident Welfare Association (RWA). The grievance of the petitioner is that the allottees are not paying the maintenance charges though the petitioner is entitled to take it in terms of the agreement of allotment. Since the RWA was not paying the maintenance charges and were using the club building and swimming pool etc., the petitioner filed a civil suit for permanent injunction in order to restrain the RWA from interfering in the running and

working of the aforesaid authorities. The petitioner got temporary injunction on 24.10.2016. The RWA did not pay the maintenance charges, therefore, the petitioner has to resort to the proceedings of contempt under Order 39 Rules 2-A of the Code of Civil Procedure, 1908. In the meantime, it is alleged that the members of the RWA started pressuring the petitioner through Government agencies like Municipal Corporation and the Police. The petitioner has thus made a prayer in this petition that this Court may direct the respondents, who are official respondents, not to stop it from withdrawing the maintenance service on account of non-payment.

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that basically it is a civil dispute and a civil suit which is already pending in the Civil Court at the instance of the petitioner. The petitioner has also got injunction. The petitioner is claiming maintenance charges whereas the RWA is denying it on the ground that they are entitled to it without payment.

Be that as it may, if the respondents in this case are also troubling the petitioner, the petitioner may implead them as a party in the pending civil suit and may seek injunction against them also because in this case the petitioner is only asking for injunction though in the language of mandamus.

In view thereof, the present petition is hereby disposed of.

(RAKESH KUMAR JAIN)
JUDGE

8th SEPTEMBER, 2017

Vivek

Whether speaking/reasoned Yes/No

Whether reportable Yes/No