

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

CRM-M No.42853 of 2019

Date of decision: 04.10.2019

Ashok Berlia

....Petitioner

Versus

Chloris Welfare Association and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Suman Jain, Advocate
for the petitioner.

ARVIND SINGH SANGWAN J. (Oral)

CRM-31025-2019

Heard.

Allowed as prayed for.

CRM-M-42853-2019

Prayer in this petition is for setting-aside the order dated 07.09.2019 passed by the Additional Sessions Judge, Faridabad in Criminal Revision No.07 of 2018 filed against the order dated 15.07.2015 in case No.137/SDM/17.06.2015 under Section 133 Cr.P.C.

The only grievance raised by counsel for the petitioner is that the direction given by the Additional Sessions Judge in the impugned order dated 07.09.2019 that the petitioner who was respondent No.1 is liable to make the payment of the Common Area Maintenance Charges for internal repair to the Residents Welfare Association from the date of its accrual till its realization along with interest is without any justification as it can only be recovered by the association in accordance with law.

Counsel for the petitioner has further submitted that in fact, the petitioner has moved an application under Section 133 Cr.P.C. before the Sub-Divisional Magistrate, Faridabad in which a direction was issued against two private persons namely Rakesh Taneja and Nikhil Taneja, who are also the owner of the flats like the petitioner, to carry out certain repair. It is further submitted that this order was also

served upon the society and the society was directed to get the flat of the petitioner repaired. Thereafter, the Residents Welfare Association filed a revision before the Court of Sessions and vide order dated 07.09.2019, while holding that the order passed by the Magistrate was patently illegal, without jurisdiction, as in exercise of powers under Section 133 Cr.P.C., he could not entertain the petition relating to *inter se* dispute between the petitioner and two other persons as no public nuisance is proved. Thereafter, the revision was allowed, however, a direction was given that the petitioner is liable to make the payment.

After hearing the counsel for the petitioner, I find no illegality in the impugned order passed by the Additional Sessions Judge, qua setting-aside the order dated 15.07.2015 passed by the Sub-Divisional Magistrate, however, the observation made in para 18 of the order by the Revisional Court that the petitioner is liable to pay the Common Area Maintenance Charges for internal repairs from the date of its accrual till its realization along with interest, was not required to be made part of the order.

Accordingly, this petition is disposed of with the direction that the aforesaid observation made in para 18 of the impugned order dated 07.09.2019 shall be deemed to be omitted and it will be open for the Residents Welfare Association to recover the said amount, in accordance with law.

With the aforesaid observations, this petition is disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

04.10.2019
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No