

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

105+243

**CWP-17078-2020 (O&M)
Date of Decision: 19.12.2022**

SUSHMA NIGAM AND ORS

... Petitioners

VERSUS

STATE REGISTRAR OF SOCIETIES HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Gaurav Chora, Sr. Advocate with
Mr, Reshabh Bajaj, Advocate for the petitioners.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Chirag Wadhwa, Advocate
for respondent No.3.

Mr. Sehaj Bir Singh, Advocate
for respondents No.5 to 22.

VINOD S. BHARDWAJ, J. (ORAL

CM-17251-CWP-2021

This is an application for placing on record the rejoinder to the reply to CM-1351-CWP-2021 on behalf of the respondents No.5 to 22 alongwith the relevant annexures.

For the reasons mentioned in the application, the same is allowed subject to all just exceptions.

The rejoinder alongwith the annexures are ordered to be taken on record. Registry is directed to tag the same at appropriate place of the paper book and page mark the same.

CM-19267-CWP-2021

The instant application has been filed under Section 151 of the C.P.C. for withdrawing the objections and application for being impleaded as party filed on behalf of the respondents No.5 to 22 in the present petition.

Notice of the application to the non-applicant-petitioner.

Learned counsel appearing on behalf of the petitioner/non-applicant accepts notice and states that he has no objection to the application being allowed.

Resultantly, the present application is allowed and the respondents No.5 to 22 are allowed to withdraw their objections and application for being impleaded as party forthwith.

MAIN CASE

The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 for seeking issuance of a writ in the nature of Mandamus for declaring the final electoral roll of the members of the respondent No.4 –Association issued on 27.09.2020 by including the names of only 57 apartment owners as against 305 apartment owners to be illegal and arbitrary and a further writ in the nature of Mandamus has been sought against the omission by the respondents No.1 and 2 in failing to entertain and redress the lawful and legitimate grievance espoused by the petitioners being apartment owners of the Heritage Max Group Housing Complex, Sector 102, Gurugram.

Learned Senior Counsel appearing on behalf of the petitioners contends that the petitioners are apartment owners in the group housing society namely the Heritage Max Group Housing Complex situated in Sector 102, Gurugram and that the election to the Governing body of the aforesaid Association had to take place. Even though the names of the petitioners no.1 and 2 had been included in the final voter list, however, the names of the remaining petitioners had not been incorporated in the voter list despite they being the apartment owners, in whose favour registered conveyance deed had also been executed by the promoter/developer. It is contended that the petitioners had also

preferred their objections before the District Registrar (Haryana Registration and Regulation of Societies), Act 2012 and the rules framed thereunder, however, as the concerned District Registrar was transferred, no decision was taken thereupon despite a statutory obligation under Sections 39(4) and (5) of the Haryana Registration and Regulation of Societies Act, 2012. Aggrieved thereof, a representation/appeal had also been preferred before the State Registrar as well, however, no action has been taken thereupon as well. Resultantly, the petitioners have approached this Court by means of filing the present petition.

At the time of issuance of notice of motion, the respondent No.3 i.e. the Returning Officer was permitted to conduct the scheduled election, however, the result thereof was ordered to be stayed till further orders from this Court.

Learned Sr. Counsel appearing on behalf of the petitioners contends that the District Registrar and other Authorities under the Haryana Registration and Regulation of Societies Act, 2012 are seized of the matter and that at first instance, the question with regard to the adjudication of disputes relating to election is required to be decided by the District Registrar/State Registrar of the Firms and Societies under Section 39(4) and (5) of the Haryana Registration and Regulation of Societies Act, 2012.

He contends that at this juncture he would be satisfied in case the District Registrar is directed to look into such petition/objections preferred by the petitioners and a reasoned and speaking order is passed thereon in a time bound manner.

Counsel appearing on behalf of the respective respondents have no objection to the same and the learned State Counsel further submits that the District Registrar of the Firms and Societies shall pass a reasoned and speaking order on the pending petition/objection after affording a due and effective

opportunity of hearing to all the stake holders within such time period as may be specified by this Court.

The present petition is accordingly disposed of with the consent of the parties and without commenting on the merits of the case, with a direction to the respondent-District Registrar of the Firms and Societies under the Haryana Registration and Regulation of Societies Act, 2012 to decide the objections/petitions under Section 39(4) and (5) of the Haryana Registration and Regulation of Societies Act, 2012 and to pass a reasoned and speaking order thereupon within a period of two months from today. The order dated 14.10.2020 granting interim protection by this Court shall enure in favour of the petitioners till the period prescribed above. It is further clarified that all the respective parties, as mentioned above, would not be restricted or limited to the parties herein only and the District Registrar of the Firms and Societies shall afford an appropriate opportunity of hearing to all interested parties.

Petition stands disposed of accordingly.

Any other misc. application(s) also stand(s) disposed of accordingly.

19.12.2022
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No