

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

**CWP No. 21310 of 2020 (O&M)
Reserved on: September 19, 2022
Date of Pronouncement: September 29, 2022**

Ashish Gupta

...Petitioner

Versus

The Registrar, Cooperative Societies, Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. C.M. Munjal, Advocate
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

Mr. Ashwani Prashar, Advocate,
for respondent No.3.

Mr. M.L. Saggar, Senior Advocate with
Mr. Armaan Saggar, Advocate,
for respondent No.4.

JAISHREE THAKUR, J.

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuing a writ in the nature of Certiorari quashing the order dated 22.9.2020 (Annexure P/17) passed by respondent No. 1, whereby the Registrar, Cooperative Societies, Punjab has reached a conclusion that Plot No. 41-D in Bhai Randhir Singh Nagar, Ludhiana, was allotted to respondent No.4—Nisha Singla and she is entitled to possession of the same.

2. In brief, the facts are that 39 acres of land was given to Adarsh

Colony Cooperative House Building Society Limited, Ludhiana, by the Improvement Trust in 1983-84, out of which only 66,340 square yards was allotted. Respondent No.4—Nisha Singla was one of the founder members of the said society and her membership No. is 541. In a General Body meeting held on 9.5.1993, plots were allotted and Nisha Singla was allotted Plot No. 41-D, measuring 250 square yards. In fact, the said respondent had opted for 500 square yards plot and the same was not allotted to her. Consequently, she challenged the same by filing an application under Sections 55 and 56 of the Punjab Cooperative Society Act, 1961 (for short **“the Act of 1961”**), praying for an award to be passed in her favour to the effect that she is entitled to a plot of measuring 500 square yards. The matter was contested on the ground that though Nisha Singla made a claim for allotment of plot measuring 500 square yards, but she never deposited the requisite amount. However, the petition under Sections 55 and 56 of the Act of 1961 was dismissed so was the appeal filed under Section 68 of the Act of 1961 by the Registrar, Cooperative Societies, vide order dated 26.4.2000. Nisha Singla then preferred a revision petition under Section 69 of the Act of 1961, which was dismissed. Aggrieved by the order of the revisional authority, respondent No. 4 filed Civil Writ Petition No. 17742 of 2001 in this Court, which was withdrawn on 23.8.2002 with liberty to file a fresh petition after giving material facts. The fresh Civil Writ Petition No. 19358 of 2002 filed by respondent No.4 was dismissed on 9.12.2002 on the ground that Nisha Singla had deposited only ₹25,000/-, which was the required amount to claim a plot of 250 square yards and there was no infirmity in the orders passed by the authorities under the Act of 1961.

Consequently, respondent No. 4 filed Civil Appeal No. 2068 of 2006 in the Supreme Court, which was dismissed on 25.1.2011 giving liberty to respondent No.4 to seek review of the order passed by this Court. Even the review application was dismissed on 16.5.2011. Nisha Singla then challenged the orders before the Supreme Court in Civil Appeal No. 3963-3965 of 2019. During the proceedings in the Supreme Court, it was argued that Nisha Singla (appellant) has not been given possession of the plot, bearing No. 41-D. Even if the appellant was not entitled to a plot measuring 500 square yards, but still she was entitled to 250 square yards already allotted to her and would be entitled to the possession of the same. The Supreme Court noted that the said plot had been allotted by Shri C.L. Azad, Administrator duly appointed, in favour of the petitioner—Ashish Gupta who, was none other than the son of T.R. Gupta, Honorary Secretary of the Society. The Supreme Court while deciding the Civil Appeal, held that the appellant—Nisha Singla cannot be deprived of a plot allotted to her merely on the basis that she has not made any grievance in respect of not getting possession of the plot allotted to her. In order to do complete justice between the parties i.e. appellant before the Supreme Court, who was originally allotted Plot No. 41-D, in Bhai Randhir Singh Nagar, Ludhiana, and the petitioner herein, namely Ashish Gupta, a direction was issued to the Registrar, Cooperative Societies, Punjab to conduct an inquiry either himself or through such officer, as he may deem fit, to find out whether the appellant was allotted plot by Shri C.L. Azad, the Administrator and after such allotment having been set aside on 17.07.1984, whether fresh allotment was made to the appellant by the Society. The Registrar, Cooperative

Societies was given four months' time to hold the inquiry in this regard.

In pursuance of the Supreme Court verdict, a detailed inquiry was held and it was concluded that Plot No. 41-D in Bhai Randhir Singh Nagar, Ludhiana, was allotted to Nisha Singla and that Ashish Gupta, petitioner herein was in illegal possession of the same. Aggrieved against the said finding, the instant writ petition has been filed.

3. Learned counsel appearing on behalf of the petitioner assails the order of the Registrar, Cooperative Societies and would submit that Nisha Singla, though allotted Plot No. 41-D, never accepted the same and that is why her allotment was cancelled and subsequently he came in possession of the same. It is further submitted that he would be entitled to an alternative plot, considering the fact that payment had been made and that he had built up his house thereon. It is further argued that a perusal of the proceedings of the meeting of the General Body held on 4.4.1993 would show that Nisha Singla had given a dissent note, while signing meeting proceedings, not accepting the plot and reserving her right to 500 square yards and she never took possession of the plot measuring 250 square yards allotted to her and therefore, the same was allotted to the petitioner herein. It is also submitted that he was duly allotted the said plot and therefore, the the impugned order is not sustainable.

4. Whereas, learned counsel appearing on behalf of respondent No.3—Adarsh Cooperative House Building Society would submit that Plot No. 41-D was allotted to respondent No.4 i.e. Nisha Singla in the General Body meeting held on 9.5.1993 and her name was reflected at serial No. 240 in the list of allotment of plots made on the said day. She was litigating for

a larger size of the plot and therefore, she did not take the allotment and No Objection from the then Managing Committee. However, she never surrendered the allotment of Plot No. 41-D made to her nor was the said allotment of the plot in her favour was ever cancelled by the Society. Para 7 of the written statement clearly states that though respondent No.4 had given her dissenting note on the proceedings recorded on 4.4.1993, she had reserved her right for a bigger plot, which cannot be treated as refusal of allotment of plot offered to her. It is further submitted that no vacant plot is available for allotment to respondent No.4. It is also submitted that the petitioner herein was admitted as member on 11.4.1994 but the same was done by the then Managing Committee without passing required resolution, while further claiming that the letter as purported by the petitioner herein that possession had been handed over by the Society is nothing but No Objection dated 15.7.1995 illegally issued by the then Administrator of the Society with a request to the Chairman, Improvement Trust to give possession and sanction plan for construction to the named members. Learned counsel based on the reply would submit that the No Objection and the construction made are without due approval and, therefore, the petitioner would have no legal right to retain the possession of the plot in question.

5. On the other hand, learned counsel appearing on behalf of contesting respondent No.4 would submit that a regular inquiry has been held by the Registrar, Cooperative Societies, Punjab, in terms of the order passed by the Apex Court and it has been found that the petitioner herein is in illegal possession of the plot and the same was never allotted to him. It is

submitted that in the General Body meeting held on 4.4.1993, respondent No.4 had been allotted 250 square yard plot for which the requisite amount had been paid. However, since she had initially opted for a plot measuring 500 square yards a dissenting note was written by her reserving her right for a plot measuring 500 square yards.

6. I have heard learned counsel for the parties and perused the pleadings of the parties.

7. From the facts, as set out, it clearly emerges that respondent No.4 had been allotted plot No. 41-D in Bhai Randhir Singh Nagar, Ludhiana. However, in the General Body meeting held on 4.4.1993, the petitioner, who had been claiming 500 square yards plot, put up a dissenting note that she is reserving her right to claim 500 square yards plot. The petitioner was never ever given the possession of the plot in question, as has been admitted by the Society itself. It also stands established that the allotment of the plot in question was never cancelled by the General Body nor did respondent No.4 give up her right over the said plot. The very validity of the petitioner being a member is in question as the same was never approved by the General Body meeting. Even the so-called letter of possession had not been issued by the Society nor has any plan been sanctioned by the Improvement Trust for construction. A detailed inquiry has already been conducted in the matter giving due opportunities to both the sides to present their case. The inquiry report specifically notes that the allotment letter which is undated shows that it has been signed/issued by Administrator Sh. Sardari Lal and Sh. Darshan Lal Manager. The inquiry report went into a great details and eventually came to the conclusion based

upon the stand of the Society that the plot allotted to Nisha Singla was never cancelled and she had only been consistently agitating for allotment of a larger plot. Based on the finding of the inquiry report, the impugned order has been passed, whereby the possession of the plot in question has been ordered to be given to Nisha Singla—respondent No.4.

8. This Court has gone through the entire inquiry report and finds that painstaking efforts have been made by the Deputy Registrar, Cooperative Societies, Ludhiana, in recording the statements and analyzing the evidence so adduced and based on that has come to the conclusion that the plot in question stood allotted to respondent No.4 by virtue of proceedings held in General Body meeting and possession was not handed over to her nor the same was cancelled. There is no infirmity in the inquiry report or in the order passed consequent to the inquiry report, directing the Improvement Trust to hand over possession to respondent No.4.

9. For the reasons afore-stated, the writ petition is dismissed.

September 29, 2022
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No