

119.

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

CWP-22659-2022

Date of Decision: 29.09.2022

RAJAT KAPOOR AND ANR

.... Petitioners

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Dinesh Arora, Advocate, for the petitioners.

JAISHREE THAKUR.J (Oral)

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent No.2 to decide the revision petition pending before it along with the application for interim stay as well as to keep the auction proceedings which have been initiated vide letter dated 15.09.2022 in abeyance till such time as the revision petition is decided.

In brief, the facts as stated are that the petitioners herein are none other than the erstwhile President and the Treasurer of respondent No.5-Rajat Cooperative Group Housing Society Limited. They were holding the said posts at the time when 20 flats were constructed. Thereafter, on completion of construction, completion certificates came to be issued by HUDA, the authority that had allotted the land to the Society. Possession letters were also delivered to the allottees. However, certain complaints were filed against the petitioners on the ground that the construction of the flats was not completed and was still pending. Complaints were filed on the CM window and before the Assistant Registrar, Cooperative Societies. The

complaint as filed on the CM window came to be filed, whereas the petitioners were asked to put an appearance before the Assistant Registrar, who looked into the matter and directed the petitioners herein to pay an amount of Rs.3,39,426/- towards maintenance charges. The order dated 06.09.2021 was appealed by the President of the Society and the said order was modified to the extent that the entire cost of repairs of the building would be borne by the petitioners herein. The petitioners, who have been fastened with a liability of repairing the entire building, filed a revision petition No.6/2022 which is pending before the Special Secretary to Government of Haryana, Cooperation Department, Chandigarh. In the meantime, an order was also passed by the Registrar-cum-Recovery Officer, Palwal directing the petitioners to deposit an amount of Rs.33,94,258/-, which order too was challenged in a revision petition and the same is pending.

Learned counsel appearing on behalf of the petitioners would submit that no effective hearings are taking place in the revision filed and, therefore, the petitioners herein are being put to great hardship as a notice has been issued for recovery of said amount by auctioning their flats.

The limited prayer made in this writ petition is that during the pendency of the revision petition, the impugned notice issued for auctioning the flats of the petitioners and to recover the amount, as assessed, be stayed, lest the auction takes place and order passed in the revision petition in their favour vitiates.

In view of the limited prayer as made, notice of motion to the official respondents only.

On the asking of the Court, Ms. Kirti Singh, DAG, Haryana, accepts notice on behalf of respondents No.1 to 4.

Let adequate number of copies of the paper book be supplied to the learned State counsel during the course of the day itself.

Admittedly, the petitioners have been fastened with a liability of repairing the flats which order stands challenged before the Special Secretary to Government of Haryana, Cooperation Department, Chandigarh and in the meantime, during the pendency of those proceedings, recovery notices have been issued and a decision has been taken to recover said amount by auctioning the flats of the petitioners themselves. It would be in the interest of justice if the said order is kept in abeyance till such time as the revision petition is decided as the petitioners would be put to great hardship in case they are deprived of their flats and the revision petition is subsequently decided in their favour.

Consequently, without commenting on merits of the matter, the instant writ petition is disposed of with a direction to respondent No.2 to decide the revision petition itself expeditiously within a period of two months from the date of receipt of certified copy of this order.

The impugned order directing the auction of the flats of the petitioners is kept in abeyance till such time as a speaking order is passed in the revision petition.

(JAISHREE THAKUR)
JUDGE

29.09.2022

sanjeev Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No