

2022:PHHC:173549

LPA-964-2022 (O&M)

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(119)

LPA-964-2022 (O&M)

Date of Decision:- 05.12.2022.

Ashish Gupta

.....Appellant

Versus

The Registrar, Cooperative Societies and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Munish Gulati, Advocate
for the appellant

Mr. Vishnav Gandhi, DAG, Punjab
for the respondent-State

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

ALOK JAIN J.

CM-2424-LPA-2022

C.M. is allowed subject to just exceptions. Copy of letter dated 20.11.2006 issued by respondent No. 3 to the appellant and copy of Public Notice given in the newspaper by respondent No. 3 on 17.12.2004

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(2)

and copy of reply of public notice dated 13.01.2005 are taken on record as Annexures P-21 to P-23 respectively.

CM-2558-LPA-2022

C.M. is allowed subject to just exceptions. Copies of written statements filed by respondents No. 1 to 4 are taken on record as Annexures P-24 to P-26 respectively.

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1. The present appeal raises challenge to the order dated 29.09.2022 passed in CWP No. 21310 of 2020, vide which the said petition was dismissed by the learned Single Judge.

2. The brief facts as narrated by learned counsel for the appellant demonstrate that the present appeal arises out of a chequered history of long drawn litigation which started in the year 1995, when respondent No. 4, (being a founder member) raised a dispute under Section 55 & 56 of the Punjab Co-operative Societies Act and claimed that she was entitled to a plot of 500 sq.yds. against the allocated Plot No. 41-D measuring 250 sq.yds. allocated to her.

3. The matter went right up till the Hon'ble Supreme Court of India at the behest of respondent No. 4 and the Hon'ble Supreme Court of India, after returning a finding, noted that the respondent No. 4 could not

be deprived of a plot allotted to her, merely on the basis that she had not made any grievance in respect of not getting the possession of plot which was of lesser area, but allotted to her and to do complete justice, the Hon'ble Supreme Court of India directed the Registrar, Co-operative Societies, Punjab to conduct an inquiry either himself or through such officer, as he may deem fit with a categorical observation, to find out whether the appellant was allotted plot by Shri C.L. Azad, the then Administrator and after such allotment having been set aside on 17.07.1984, whether fresh allotment was made to the appellant by the Society or not. The Registrar Cooperative Society was given four months' time to hold the inquiry in this regard.

4. In compliance of the dicta of the Hon'ble Supreme Court of India, the Registrar conducted an enquiry and passed an order dated 22.09.2020 which reads as under:

“After hearing all the parties, perusing the record and inquiry report submitted by Deputy Registrar, Ludhiana dated 20.03.2020, I Vikas Garg, Registrar Cooperative Societies, Punjab had reached the conclusion that Plot No. 41 D Bhai Randhir Singh Nagar was allotted to Smt. Nisha Singla by Sh. C L Azad Administrator and after this vie resolution of general Body dated 04.04.1993 the Plot No. 41 D was re-allotted to Smt. Nisha Singla. After perusing record

it is found that allotment made to Smt. Nisha Singla is genuine and Sh. Ashish Gupta is having illegal possession of Plot No 41 D. Therefore, Deputy Registrar Ludhiana and concerned Society is hereby directed to correspond with Ludhiana Improvement Trust (LIT) to give the possession of plot to Smt. Nisha Singla.”

5. Aggrieved by the above, the petitioner filed the writ petition challenging the said report and the effect thereof, which came to be dismissed vide order dated 29.09.2022 by the learned Single Bench by passing a detailed order. Hence the appeal.

6. On the strength of the factual matrix as detailed above, learned counsel for the appellant has vehemently argued that the appellant is a bonafide purchaser vide allotment letter dated 15.07.1995 and has subsequently constructed his house in the year 2006. He claimed his possession since year 1995 after being enrolled as member of the society on 11.04.1994. Learned counsel for the appellant has further submitted that respondent No. 4 never raised any claim against the appellant rather her claim was only with regard to an allotment of a bigger size of plot i.e. 500 sq.yds. instead of 250 sq.yds. which was allotted to her. He submits that despite respondent No. 4 being aware of the entire matter never chose to implead the appellant in 30 long years of litigation. Learned counsel for the appellant has further argued that the learned Single Judge has failed to

appreciate the fact that the plot which was allotted to the appellant was never re-allotted to respondent No. 4 as she had refused to accept the allotment by giving a dissenting note. Therefore, respondent No. 4 was never held entitled to and considered for allotment of Plot No. 41-D. More so, the appellant has already constructed upon the said plot after registration of sale deed. Taking the arguments further, learned counsel for the appellant has submitted that respondent No. 4 after losing the litigation right up till Hon'ble Supreme Court of India, subsequently in a review petition got an order that she is entitled for a 250 sq.yds. plot and if the plot is not available then the respondents shall allot any other suitable plot to her. Learned counsel for the appellant has emphasized on the issue that respondent No. 4 litigated all along for an allotment of 500 sq.yds.

7. On summarizing the above, learned counsel for the appellant prays for setting aside the order dated 29.09.2022 passed by the learned Single Judge and consequently quashing the order dated 22.09.2020 (Annexure P-17) whereby the Registrar Cooperative Societies was pleased to pass the order holding the allotment to the appellant as bad and declaring the appellant in illegal possession of the said plot.

8. Per contra, learned Senior Counsel Mr. M.L. Saggar assisted by Ms. Armaan Saggar, Advocate, has opened his arguments by submitting that respondent No. 4 has been running from pillar to post and litigating since year 1982, after depositing the amounts for allotment of residential

plot from 12.05.1975 till 15.01.1982. Learned Senior counsel has submitted that respondent No. 4 was one of the Founding Members and had membership no. 541. Respondent No.4 was eligible for a plot of 500 sq.yds. in the society but one Mr. C.L. Azad allotted 281 plots to the members of the Society without framing any criteria. In the said allotment, respondent no. 4 was allotted plot No. 41-D. However, vide order dated 17.07.1984, the Deputy Registrar, Co-Operative Society, Ludhiana has set aside the said allotment but the said order was set aside on 02.01.1985 by the Joint Registrar, Co-Operative Society, Ludhiana. Interestingly the Commissioner Appeal set aside the order of Joint Registrar, Co-Operative Society, Ludhiana and the net effect was that the order dated 17.07.1984 passed by the Deputy Registrar, Co-Operative Society, Ludhiana attained finality.

9. It is categoric stand of respondent No. 4 that a regular inquiry has been held in compliance of the orders passed by the Apex Court wherein it has been held that the appellant is in illegal possession of the plot, on the premises that the allotment order was set aside by the competent authorities. As regards the contentions raised by the appellant that respondent No. 4 never objected to his allotment and has always kept her stand for bigger size of plot, is also unfounded for the reason that the appellant never denied the allotment, rather always protested and reserved her right to claim a plot of 500 sq.yds.

10. After hearing learned counsel for the parties at length and with their able assistance, we are of the opinion that the present appeal deserves dismissal, for the reason that there was categorical finding returned by the inquiry officer that the appellant is in illegal possession of the said plot. The appellant duly participated in the inquiry conducted and after considering the entire matter and the record, the report was submitted. More so, we do not find any infirmity in the order passed by the learned Single Judge.

11. In addition to the above, the entire enquiry proceedings which flow from the order of the Hon'ble Apex Court clarify the position that the plot allotted to respondent No. 4 was never cancelled.

12. In the light of the above, the present appeal being devoid of any merit deserves to be dismissed.

13. Ordered accordingly.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ALOK JAIN)
JUDGE

December 05, 2022.

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