

2024:PHHC:156989-DB



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.1238 of 2023
Date of Decision:25.11.2024

Mrs. Maninder Pal

...Appellant

Versus

The Chandigarh Sector-16 Cooperative House Building
Society Limited and others

...Respondent

CORAM: ***HON'BLE MR. JUSTICE G.S. SANDHAWALIA***
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Sanjay Kaushal, Senior Advocate with
Ms. Pawelpreet Kaur, Advocate and
Mr. Arvind Seth, Advocate
for the appellant.

Mr. Raj Kaushik, Advocate
for respondent No.1.

Mr. Rohit Kaushik, Panel Counsel and
Mr. M.K. Dogra, Additional Standing Counsel
for respondents No.2 & 3-UT, Chandigarh.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the judgment handed down by learned
Single Judge on 17.05.2023 whereby ***Civil Writ Petition (CWP) No.11685***
of 2009 filed by the appellant-writ petitioner (here-in-after to be referred as
'the appellant') for seeking the issuance of writ in the nature of mandamus,
directing the respondents to allow her to continue to be the member of
respondent No.1-Society, with the further prayer for issuing a writ in the
nature of certiorari, quashing the order dated 19.11.2008 (Annexure P-16),



Resolution dated 20.11.2006 (Annexure P-14), the letter dated 17.02.2007 (Annexure P-14/A) and the order dated 18.03.2009 (Annexure P-18), has been dismissed, she (appellant) has chosen to prefer the instant Letters Patent Appeal to lay challenge to the same.

2. Shorn and short of unnecessary details, the facts culminating in the filing of the present intra-Court appeal, are that the appellant had filed the above-referred CWP, while averring that she was the member of respondent No.1-The Chandigarh Sector-16 Co-operative House Building Society Limited, by virtue of Share Certificate No.75 and had deposited a total sum of Rs.7.96 lac towards the cost of the land and construction of the flat thereon, for the purpose of allotment of one 'B' category flat to her. However, inspite of her repeated visits to the office of respondent No.1-Society and issuance of legal notices dated 07.08.2007 and 27.08.2007 to it (Society), she was not informed about the status of the allotment of the flat and the balance amount, if any, payable by her in respect thereof. Finally, she was constrained to file a petition under Sections 55 & 56 of the Punjab Co-operative Societies Act, 1961 (as applicable to UT, Chandigarh and for short 'the Act') for adjudication of the dispute qua possession of the afore-said flat and thereafter, during the course of arbitration proceedings, she came to know about her expulsion from the membership of the Society on 20.11.2006 vide the Resolution Annexure P-14 and she was supplied the copies of this Resolution and the letter dated 17.02.2007 (Annexure 14/A) in pursuance of the order passed by the Additional Registrar, Co-operative Societies in April, 2008. She moved an appeal against the above-mentioned Resolution but the same was dismissed by Assistant Registrar, Cooperative



Societies vide order Annexure P-16. Then, she preferred a revision-petition to assail the afore-referred order but it had also been rejected/dismissed by the Court of the Advisor to the Administrator, UT Chandigarh vide the order dated 18.03.2009 (Annexure P-18), by ignoring the fact that no notice had been served by respondent No.1-Society upon her before expelling her from its membership.

3. Respondent No.1-Society submitted its counter-affidavit to contest the claim of the appellant, as set-forth in the above-said CWP and asserted therein that she (appellant) had been issued numerous notices and reminders and moreover, a public notice dated 19.09.2006 had also been got published in the newspaper for granting the defaulter-members another opportunity to deposit their dues by 27.09.2006 but she had failed to do the needful in this regard and ultimately, she, along-with three more defaulter-members named Rupinder Deep Kaur, Anup Singh Ghai and Inder Mohan Rishi, had been expelled from the membership of the Society vide the Resolution Annexure P-14 in accordance with its (Society's) Bye-law No. 11(a)(ii) and she had never approached respondent No.1-Society to seek information regarding the flat and the balance amount payable by her. The appellant filed her replication controverting therein the assertions, as made by respondent No.1-Society in its counter-affidavit. Then, after hearing the counsel for both the parties, learned Single Judge has dismissed the afore-mentioned CWP vide the impugned judgment, as already discussed in the opening para of this judgment.

4. We have heard learned Senior counsel for the appellant as well as learned counsel for respondent No.1-Society and also learned Panel



counsel for respondents No.2 & 3 in the instant Letters Patent Appeal and have also perused the file/record carefully.

5. Learned Senior counsel for the appellant has contended that the appellant had deposited a total amount of Rs.7.96 lac with respondent No.1-Society towards the payment of the cost of land and construction of the flat and the Society never issued/served any notice to her regarding the payment of outstanding dues and thus, she (appellant) had been deprived of the opportunity of being heard on the above-said issue before her expulsion from the membership of the Society vide Resolution Annexure P-14 but at the time of passing the orders Annexures P-16 and P-18, the Competent Authorities had not properly appreciated the afore-referred aspect in the correct perspective and learned Single Judge has also not rightly considered the above-mentioned infirmity and therefore, the impugned judgment, the Resolution, letter and the orders as well, are liable to be set-aside.

6. However, during the course of arguments, learned counsel for respondent No.1-Society has submitted the copy of the newspaper cutting, containing the public notice issued by respondent No.1-Society to inform the defaulter-members to deposit the outstanding dues by 27.09.2006 so as to avoid their expulsion from the Society and cancellation of their flats and he has argued that the appellant had also been issued several notices by respondent No.1-Society to deposit the dues as outstanding against her and these notices were issued to her at the address, as furnished by her at the time of her enrolment as the member of the Society and these facts make it explicit that the appellant was well aware of the amount due from her to the Society but she did not bother to pay/deposit the same and due to this lapse/



default on her part, she had correctly been expelled from the membership of the Society.

7. It goes undisputed between the parties that the appellant was a member of respondent No.1-Society and had applied for the allotment of one category 'B' flat in the same (Society). Annexures R-2 and R-3 are the copies of the reminders/notices dated 22.08.2005 and 20.05.2006, as issued by respondent No.1-Society to the appellant, asking her to pay/deposit the outstanding dues/amount as detailed therein and also informing her that in the eventuality of her failure to deposit the same within the stipulated period, her allotment would stand cancelled. Annexure A-4 (Colly at pages No.319 to 323 in the paper-book) contains the copies of the Postal Receipts/Acknowledgments wherein the notice dated 20.05.2006 (Annexure R-3) is shown to have been received by the appellant at H.No.2576, Sector 27-C, Chandigarh and this fact negates her (appellant's) plea qua her having not been informed or issued notice regarding the amount/dues as outstanding against her, before passing the Resolution Annexure P-14.

8. Learned Senior counsel for the appellant has further contended that in case, no category 'B' flat is, presently, available with respondent No.1-Society, then the appellant is ready and willing to pay the requisite amount towards the cost of category 'A' flat and it being so, the Society be directed accordingly.

9. Again, the afore-raised contention does not cut much ice with this Court because as observed in the preceding paragraphs, the appellant had defaulted in the payment of the instalments as outstanding against her towards the allotment of the category 'B' flat and hence, she was expelled



from the membership of the Society vide Resolution Annexure P-14 and thus, she, no more being the Member of the Society, cannot be extended the above-mentioned concession because it is well settled that no one can be allowed to derive/get any benefit out of one's own mistake or wrong acts/omissions.

10. As a sequel to the fore-going discussion and in view of the findings as recorded by the learned Single Judge, we are of the considered opinion that there is no cogent and valid reason/ground to interfere with the impugned judgment. Resultantly, the appeal in hand, being *sans* any merit, stands dismissed accordingly.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

November 25, 2024
pooja

Whether speaking/reasoned: Yes
Whether Reportable: No