

2024:PHHC:105032



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

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CWP-19542-2024

Date of Decision: 13.08.2024

RESIDENTS WELFARE ASSOCIATION

... Petitioner

VERSUS

STATE OF HARYANA AND ORS

... Respondents

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

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the order dated 28.05.2024 (Annexure P-9), passed by Registrar General, Firms and Societies, Haryana, whereby appeal No.596 of 2024 filed by the petitioner against the order dated 11.01.2024 (Annexure P-7) passed by State Registrar of Societies, Haryana, has been dismissed.

Learned counsel for the petitioner contends that the Society got its Occupancy Certificate in the year 2017. Thereafter, the petitioner association was constituted in 2018. On account of certain criminal cases registered against the builder, he was taken in custody and the other staff members of the company thereafter stopped taking care of remaining infrastructure requirements of the society. Consequently, the Provisional Occupancy Certificate was cancelled for non-fulfillment of the conditions. The petitioner-association, thereafter, decided to complete the remaining infrastructure work by contributing amongst themselves. It was also decided that as and when new occupants would come, their respective share will be charged from them. In the



meantime, in 2020 due to the case against the builder, the Enforcement Directorate attached 72 flats out of 192 flats which further increased load per unit against the owners. He further contends that respondent No.5- Mr. Satish Kumar has not paid his share while shifting in the Society. He submits that respondent No.5 preferred a complaint before the District Registrar of Societies, Faridabad, against the maintenance charges to the tune of Rs.3,06,851/- claimed as recoverable from him from 2018 to till date whereas respondent No.5 got the possession of his flat on 24.07.2023. It was also complained by respondent No.5 that the petitioner-society is not issuing the connection in relation to the amenities like electricity and water to his flat.

The District Registrar issued notice whereupon the petitioner appeared and filed its response. Thereafter, vide order dated 22.09.2023 the District Registrar had disposed of the complaint by holding that RWA is bound to give membership and also held that the CAM charges are to be calculated from the date of possession. It was further observed by the District Registrar that the contentions/disputes with respect to providing electricity connection and water connection do not fall under the purview of the office of District Registrar and thus, respondent No.5 was advised to approach the concerned department for redressal of his grievance. The operative part of order dated 22.09.2023 reads thus:-

“During the course of hearing, on the perusal of the records/documents submitted and after hearing contention of the concerned parties, it has been observed that the RWA for formed in 2018 whereas the complainants got the possession of the flat in 2023. Therefore, the RWA is bound to give the membership and also inform that the CAM charges are also calculated from the date of possession. Further, the rest contention of both the cases w.r.t. providing, electricity connection and water connection does not fall under the purview of this office. Therefore, both the complainants are advised to approach the concerned departments for



redressal of their grievance. Hence the abovesaid complaints are disposed off.”

Aggrieved thereof, respondent No.5 preferred an appeal before the State Registrar of Societies, Haryana. Vide its order dated 11.01.2024, the State Registrar of Societies held as under:-

“In view of the above, the respondent society is directed to provide all the services including essential services to the appellant/residents as per their bye laws as the management of the society is responsible to manage the day to day affairs of the society. The CAM charges are charged for the services being provided, however, in the present case, the essential services are not being provided, thus the appellant is liable to pay CAM charges only after all the services including essential services are provided to the appellant. The appeal is allowed and disposed off accordingly.”

It is evident that the State Registrar of Societies, Haryana, had directed the society to provide all the services including essential services as per their bye laws since the management of the society was responsible to manage the day to day affairs of the society. It was also held that CAM charges could be collected only if the services are to be extended to the owner.

The above said order dated 11.01.2024 was challenged by the petitioner before the Registrar General of Firms and Societies, Haryana. The said appeal No.596 of 2024 was dismissed by the Registrar General of Firms and Societies, Haryana, by directing as under:-

“In view of the above, I am of the considered view that the Ld. State Registrar of Societies, Haryana, has rightly directed that the CAM charges are charged for services being provided and directed that the present respondent No.3 is liable to pay CAM charges only after all services including essential services are provided to him. Electricity



connection & water connection are the essential services which are required to be provided by the society to all the residents of the society. The Ld. State Registrar of Societies, Haryana, has rightly exercised his jurisdiction while passing impugned order dated 11.01.2024. I hereby uphold the order dated 11.01.2024 passed by the Ld. State Registrar of Societies, Haryana.”

Aggrieved thereof, the present writ petition has been filed.

Learned counsel appearing for the petitioner has made a strenuous effort in arguing that the society has undertaken the internal development works by taking a decision to arrange funds for the same through mutual proportionate contributions and that respondent No.5 is not wanting to deposit the said charges under the garb of order dated 28.05.2024. He further contends that the aspects examined by the Registrar General of Firms and Societies were not within his purview and the charges in relation to internal development works would not have been ruled upon by officials under the Haryana Registration and Regulation of Societies Act, 2012.

Insofar as the contention as to whether the determination of legitimacy of charges for internal development works could be done by the Registrar General is concerned, this Court does not intend to delve into any further investigation since the counsel for the petitioner was called upon to point out any specific evidence that was submitted by the petitioner-Association before the competent authority under the Haryana Registration and Regulation Societies Act, which showed that the disputed amount being claimed was towards the proportionate cost of ‘internal development works’. He is not in a position to refer to any evidence on record which was placed before the Competent Authority while exercising appellate jurisdiction under Haryana Registration and Regulation Societies Act, 2012.



Besides, the appellate order deals with entitlement of the RWA to claim the Common Area Maintenance charges only after possession is offered to him as resident and not for any period prior thereto. It is also not in dispute that in a Group Housing Society, the electricity department provides a single point of HT connection. The internal lay out is required to be done by the developer itself. There is also no document, which is available on record or has been pointed out on the basis whereof it can be accepted that the amount of Rs.3.06 lakhs approximately as demanded was infact in relation to the proportionate cost of internal development works. Rather, it is specifically recorded in the order by the Authorities that the abovesaid demand was made in respect of Common Area Maintenance charges from 2018 till July, 2023. The argument of the petitioner is, thus, not supported from the record. The petitioner cannot thus set up a new case at this stage.

Hence, while keeping the questions of law open, I am of the opinion that the orders passed by the Authorities do not warrant any interference at this stage.

The present writ petition is, accordingly, dismissed in *limine*.

So far as the aspect of proportion levy of charges for internal development works in light of the decision by the general body of RWA is concerned, the same having not been commented upon by this Court, the parties will be at liberty to take appropriate steps in accordance with law.

AUGUST 13, 2024
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No