

IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH

C.W.P. No.7742 of 2007

Date of Decision: 12.01.2010

Satinder Pal Singh and othersPetitioners

Versus

State of Punjab and othersRespondents

Present: Mr. S.C. Nagpal, Advocate
for the petitioners.

Ms. Monica Chhibbar Sharma, DAG, Punjab
for respondent Nos.1 to 3.

Mr. D.V. Sharma, Sr. Advocate with
Ms. Shivani Sharma, Advocate and
Mr. Puneet Bali, Advocate with
Mr. Gurvinder S. Bhatti, Advocate
for respondent No.4.

Mr. Pardeep Bajaj, Advocate for
Mr. Rupinder S. Khosla, Advocate
for PUDA-respondent No.5.

2. C.W.P. No.12444 of 2007

Inderjit Singh and othersPetitioners

Versus

State of Punjab and othersRespondents

Present: Mr. Arun Jain, Sr. Advocate with
Mr. Amit Jain, Advocate
for the petitioners.

Ms. Monica Chhibbar Sharma, DAG, Punjab
for respondent Nos.1 to 3.

Mr. D.V. Sharma, Sr. Advocate with
Ms. Shivani Sharma, Advocate and
Mr. Puneet Bali, Advocate with
Mr. Gurvinder S. Bhatti, Advocate
for respondent No.4.
Mr. Pardeep Bajaj, Advocate for

Mr. Rupinder S. Khosla, Advocate
for PUDA-respondent No.5.

3. C.W.P. No.14299 of 2007

Sucha Singh and anotherPetitioners

Versus

State of Punjab and othersRespondents

Present: Mr. T.S. Chauhan, Advocate
for the petitioners.

Ms. Monica Chhibbar Sharma, DAG, Punjab
for respondent Nos.1 to 3.

Mr. D.V. Sharma, Sr. Advocate with
Ms. Shivani Sharma, Advocate and
Mr. Puneet Bali, Advocate with
Mr. Gurvinder S. Bhatti, Advocate
for respondent No.4.

Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Vikram Sharda, Advocate
for respondent No.5.

4. C.W.P. No.14984 of 2007

Amit Saini and othersPetitioners

Versus

State of Punjab and othersRespondents

Present: Mr. Ashok Sharma, Advocate
for the petitioners.

Ms. Monica Chhibbar Sharma, DAG, Punjab
for respondent Nos.1 to 3.

Mr. D.V. Sharma, Sr. Advocate with
Ms. Shivani Sharma, Advocate and
Mr. Puneet Bali, Advocate with
Mr. Gurvinder S. Bhatti, Advocate
for respondent No.4.

Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Vikram Sharda, Advocate

for respondent No.5.

5. C.W.P.16487 of 2007

Rakesh Singh

.....Petitioner

Versus

State of Punjab and others

....Respondents

Present: Ms. Puneeta Sethi, Advocate
for the petitioners.

Ms. Monica Chhibbar Sharma, DAG, Punjab
for respondent Nos.1 to 3.

Mr. D.V. Sharma, Sr. Advocate with
Ms. Shivani Sharma, Advocate and
Mr. Puneet Bali, Advocate with
Mr. Gurvinder S. Bhatti, Advocate
for respondent No.4.

Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Vikram Sharda, Advocate
for respondent No.5.

6. C.W.P.1312 of 2008

Basant Singh and another

.....Petitioners

Versus

State of Punjab and others

....Respondents

Present: Mr. G.K. Hundal, Advocate
for the petitioners.

Ms. Monica Chhibbar Sharma, DAG, Punjab
for respondent Nos.1 to 3.

Mr. D.V. Sharma, Sr. Advocate with
Ms. Shivani Sharma, Advocate and
Mr. Puneet Bali, Advocate with
Mr. Gurvinder S. Bhatti, Advocate
for respondent No.4.

Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Vikram Sharda, Advocate
for respondent No.5.

7. C.W.P.2571 of 2008

Smt. Harminder Kaur and othersPetitioners

Versus

State of Punjab and othersRespondents

Present: Mr. M.S. Bedi, Sr. Advocate
for the petitioners.

Ms. Monica Chhibbar Sharma, DAG, Punjab
for respondent Nos.1 to 3.

Mr. D.V. Sharma, Sr. Advocate with
Ms. Shivani Sharma, Advocate and
Mr. Puneet Bali, Advocate with
Mr. Gurvinder S. Bhatti, Advocate
for respondent No.4.

Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Vikram Sharda, Advocate
for respondent No.5.

8. C.W.P.20856 of 2008

Charanjit Singh Toor and anotherPetitioners

Versus

State of Punjab and othersRespondents

Present: Mr. Rajneesh Sharma, Advocate
for the petitioners.

Ms. Monica Chhibbar Sharma, DAG, Punjab
for respondent Nos.1 to 3.

Mr. D.V. Sharma, Sr. Advocate with
Ms. Shivani Sharma, Advocate and
Mr. Puneet Bali, Advocate with
Mr. Gurvinder S. Bhatti, Advocate
for respondent No.4.

Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Vikram Sharda, Advocate
for respondent No.5.

9. C.W.P.19216 of 2009

Kuldeep Kaur and another

.....Petitioners

Versus

State of Punjab and others

....Respondents

Present: Mr. S.C. Nagpal, Advocate
for the petitioners.

Ms. Monica Chhibbar Sharma, DAG, Punjab
for respondent Nos.1 to 3.

Mr. D.V. Sharma, Sr. Advocate with
Ms. Shivani Sharma, Advocate and
Mr. Puneet Bali, Advocate with
Mr. Gurvinder S. Bhatti, Advocate
for respondent No.4.

Mr. Sanjeev Sharma, Sr. Advocate with
Mr. Vikram Sharda, Advocate
for respondent No.5.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J.

I. Parties to dispute - General

1. Co-operation and litigation are a semantic mismatch. The former epitomizes harmony and the latter, animosity; the former cements and the latter splinters; the former warms up heart and the latter leaves behind gall and bad-blood. The United Cooperative House Building Society (the – respondent in CWP No.7742/2007), as the combination of words signify, ought to have made room for a united happy living of several persons under a common roof. This, it did not and so we have these

litigations. The fight is between members of the society and persons who claim to be members by induction through resolutions of the committee. The bad blood is on account of alleged betrayal of trust by persons at the helm of the affairs of the society who have made arbitrary allotments of flats breaching principles of fair play and seniority. Caught in this cross-fire are the official respondents who have passed orders legitimizing the induction of membership and allegedly allowing several such persons to corner allotments by keeping at bay the old timers by brazen nepotism and corruption indulged by the office bearers of the society.

II. Objects of the Society

2. The 4th respondent was registered under the Registrar of Cooperative Societies on 17.06.1987, found with the avowed object of purchase and construction of land and buildings as per the duly sanctioned plans for distribution amongst the members of the society. The object was also to undertake measures to spread knowledge of cooperative principles and practices. The persons eligible for admission as per Clause 5 of the Bye Laws were that the member shall be over 18 years of age and of sound mind, ordinarily resident in the area of the operation of society, of good character and intends to build a house of his own in the area of operation of the society. The area of operation of the society in Clause 3 states that it shall be at Belongi, Mohali and Doana only. The disqualification for the membership as set out in Clause 6 is

that he could not have applied for bankruptcy and declared as insolvent or having suffered any conviction for offences involved dishonesty or moral turpitude within 5 years from the date of applying for membership.

3. The funds of the society would include the shares taken by each member, which shall be at least one share of the value of Rs.100/- at the time of admission and no member shall hold a share of which the nominal value exceeds Rs.10,000/- or 1/5th of the total share capital subscribed, whichever will be less. The Managing Committee as per Clause 13 shall vest in a body consisting of not more than 7 members and it shall hold office for a term of three years. The powers of the Managing Committee as set out in Clause 36 included the power to purchase or acquire land by exchange, lease or otherwise for construction of houses and to sell, lay out, or lease, size to members for construction of houses. Clause 37 also provides to the Managing Committee the competence to frame subsidiary rules.

4. The most crucial object of the society namely the construction of houses is covered under Clause 45 of the Bye Laws, which allows for construction of houses to be undertaken by the members themselves. If the members so desired, the Managing Committee may undertake construction at the expense and risk of the members. When the Managing Committee undertake construction of houses, it shall require the members concerned to pay to the society in advance, the whole of the

estimated cost; whether in lump sum or in such installments as the Managing Committee may require. The Bye Laws also envisage a time frame, when they set out through the Clause 45(2) that where a loan is given to a member, the construction for building shall commence within two months thereof and completed within 15 months from the date disbursement of first installment of loan. If the member fails to complete a construction within stipulated time, the Managing Committee may take the construction in its own hand and complete it, debiting the expenditure to the loan account of the member concerned. The right of alienation is restricted to be within the members themselves and it could be subject to such condition as the Managing Committee could lay down, as per Clause 46 of the Bye Laws.

III. Scope of adjudication

5. The registration of the society and the Bye Laws framed with such lofty objectives still floundered due to poor management and poor application of the moneys placed in the hands of the Managing Committee. It has gone through several rounds of litigation with directives through writ petitions and with orders of higher officers in the bureaucracy connected with the Department of Cooperative Societies. The issues for adjudication are with reference to various orders that have been passed by authorities constituted under the Punjab Co-operative Societies Act, that have an immediate bearing to the identification of genuine members of the society and the respective entitlements to

allotment of flats that the society had decided to construct in the property allotted by Punjab Urban Development Authority (PUDA). Some of the decisions of the society taken through resolutions are sought to be quashed and some of the orders passed by the official-respondents are also challenged in the writ petitions. The resolutions in challenge and the orders that are put to test may, therefore, be examined to address the grievance of the petitioners in this batch of writ petitions.

6. The problems have come about with the persons who are inducted as members of the society not having been allotted the plots or houses and being systematically sidelined by newly inducted members who had stolen a march over them and who had the benefit of immediate allotments. There seems no certainty even to number of constructions which are going to be made and the number of allottees that would benefit by such constructions. Charges of nepotism were made against the Managing Committee members and indiscriminate induction with offers to make immediate allotments gave an unprecedented premium to the memberships themselves. There were many a story of exchange of unaccounted monies. The petitioners in the various writ petitions allege a large scale scam in the manner of induction of member, the moneys collected from them and the allotments hitherto made and seek for constitution of a full fledged enquiry against the office bearers of the society and to hand over the investigation to CBI. The bottom line is that the

persons who have paid their monies upon calls from the society still wait with bated breath for the promises of allotment to fructify. The complaint is that persons, who came in later and who knew to get their own agenda going, obtained priority allotments. The petitioners would, therefore, want for annulment of such allotments made.

V. Initial directions by this Court

7. On the first occasion, when the writ petition was filed in C.W.P. No.7742 of 2007, impressed with the prima facie character of the pleas made, a Division Bench of this Hon'ble Court directed by its order dated 25.05.2007 that no further allotment and delivery of possession shall be made. With several objections coming along and orders issued by authorities altering the positions in some way, subsequent writ petitions have come to be filed challenging the order passed on 19.03.2007 and still later in a subsequent order passed on 27.08.2007, by the Secretary, Co-operative Department in his capacity as a revisional authority upholding the induction of membership of 109 new members and directing the matter to be remanded to the Registrar of Co-operative societies for considering the claims for allotment as per the directions contained in the order. By an order dated 28.04.2009, a Single Judge of this Court sought for identification of issues in the disputes arising between the parties and proposed a mechanism of adjudication through an independent adjudicator. The proposal did not come to fruit and the stage was set for a final

adjudication through the Court itself with yet another order passed on 19.11.2009 that society should file an affidavit through its Secretary giving the number of flats, which could be earmarked and allotted to the petitioners in the writ petitions.

VI. On road to a fresh agenda - the imperatives

(a) Broad priorities set out

8. Addressing the grievance of the petitioners before the Court would be the prime objective. Preparation of a larger framework for a transparent conduct of the Committee shall be the next task so that future litigations could be quelled. It does not require long and tedious reasoning to come to a conclusion that all is not well. If it were not so, there would have been no need for litigations and we would not have arrived to a situation that from the time when the society was framed in the year 1987 till date, the constructions have not been completed and distributed in the manner planned. We will, therefore, start only with a positive framework that the persons who were members of the society since the inception and who have parted with the sale considerations as and when amounts were demanded are assured an immediate allotment. The persons, who have been inducted as members subsequently, will rank next in the order of priority for allotment, even if it means in the process that their allotments already made shall be liable for cancellation. The third attempt shall be to freeze the scheme to some degree of finality so that the members know what falls for distribution amongst them and there

are no longer whimsical inclusion of membership and arbitrary distribution of properties by way of allotments.

(b) The list of genuine members identified

9. The last of the orders passed by the Deputy Registrar exercising the powers of the Registrar, Cooperative Societies, Punjab on 27.08.2007 addressed the grievances aired by the members and that could itself be the starting point for finding solution for the controversy. The order has come to be passed at the instance of the petition filed by the 14 members of the society principally challenging the resolutions made on 12.09.2004 and 16.02.2005 found to be irregular on account of the fact that the nominee of the Registrar had not notified all the meetings. However, in a General Body Meeting held on 09.04.2006 reviewed the decision and passed a fresh resolution on 09.04.2006 in supersession of the decision taken earlier. The order records the fact that after fresh resolution was made in the meeting held where many of the members, who have now filed the writ petitions were actually present and they have also been allotted the flats. This decision passed by the Deputy Registrar on 27.08.2007 itself had been challenged by means of writ petitions and some other petitioners admittedly have also approached the Government in revision for annulling the order made by the Deputy Registrar. The decision of the Deputy Registrar on 27.08.2007 is not, in any sense, conclusive, for the challenges to the sales have come through writ petitions and revisions pending

before the Government. This order has come after many a tumble and the first order, which addressed the issue more comprehensively is the order of the Registrar of Cooperative Societies passed on 31.07.2004 passed under the directions of the Financial Commissioner on 08.08.2003 and subsequently on 20.11.2003 as per the directions of this Hon'ble Court in C.W.P. No.16577 of 2003. The said order records the fact that three-member committee had been constituted on 18.09.2003 consisting of Additional Registrar (Administration) and two Additional Registrars of the Cooperative Societies, who issued public notices on 28.10.2003 and on 09.11.2003 calling upon interested persons to file their claims and objections with respect to membership of the society within 15 days. A total 548 claims have been received by the Committee and it proceeded to examine the genuineness of the claims and put them to five categories. The first category consisted of 348 claimants, whose names figured in the list in Proforma A of the Committee report. The second category comprised of claimants who submitted their claims after the submission of the first scrutiny report but before the submission of the supplementary report. The third category of five members comprised of the claimants, who submitted their claims after the submission of the supplementary report. The fourth category consisted of 100 claimants, whose names were not borne on the records of the society and compiled in Proforma 8 and the fifth category were the persons whose names were enrolled by the

Society in the months between January to March, 2004 on the basis of the order passed by the Financial Commissioner that there could be no fetter of admission of persons as new members. The Committee found amongst first and third categories, 283 members to be genuine members. This list of 283 members as genuine has not been denied by any party and therefore, their entitlement to allotment cannot be impeached subject to fulfillment of the conditions regarding payments when the respective calls are made to them. From the second category, the Committee identified 2 members as genuine. The Committee also found that 102 members in the fourth category were not genuine members and as regards the claims in the fifth category of 109 claimants, whose names were received between January to March, 2004, it was observed that they had been made members only after the orders were passed by the Financial Commissioner, Cooperative, Punjab. The Registrar by its order observed that on the question of deciding genuineness of the newly enrolled members was beyond the scope of the scrutiny committee and he, therefore, refrained in passing the order in respect of those members, who claimed membership between January to March, 2004. Notwithstanding the decision of the Registrar, it is still contended by the petitioners that 109 members, who were subsequently inducted were found by the scrutiny committee to be persons, who had paid amounts ranging between Rs.1 lac to Rs.12 lacs for getting the flats and the Committee had observed

that these newly inducted persons had paid huge sums to the present Secretary of the Society for obtaining their enrollment. In the appeals filed to the Financial Commissioner, Cooperative Societies against the decision of the Registrar, it passed an order after appraising the Scrutiny Committee's report affirming the decision of the Registrar with reference to 285 persons identified as genuine members and also upheld the claim of the newly enrolled 109 members as also genuine. This decision was taken by observing that there could be no fetter on enrollment of new members and the Scrutiny Committee itself had not specifically held anywhere that the persons were fictitious. If some of them had substituted the names of fictitious members and they had also paid substantial sums to become members, their induction ought not to be objected to. If newly inducted members have come through transfers, so long as the Managing Committee was competent to enroll new members, no mala fides could be attributed to such enrollment. This observation of the Secretary shall be subject to one more rider that the newly inducted members must fulfill the qualifications set out in the byelaws, which we have extracted above in para 2 above.

(c) Issue of allotment to 109 (or 104?) members, need for modification

10. All the writ petitioners are persons, who fall amongst the group of genuine members. Some of them have been allotted apartments and some have not been. Their grievance has been that persons, who are inducted as members subsequently have

already secured their allotments. The petitioners cannot have an objection that no new member can be inducted. Their grievance will be legitimate only to the extent that persons, who came later have to wait till the petitioners obtained their allotments and if they have obtained any priority that would require to be annulled. Their contention is that there are about 264 allotments made so far, out of which only 106 are genuine and 158 allotments are not genuine allotments. It is also their grievance that 78 additional allotments have been made out of which only 20 are genuine and 58 are not genuine. The response to these contentions on behalf of the Society is that amongst the 109 members, who had been inducted between January and March 2004, allotments were immediately made only because they alone were responsible for redeeming the Society out of an imminent prospect of the resumption ordered by HUDA for non-payment of the consideration, which they had to pay before a particular date. Out of 109 members immediately after notices for making the payment, 62 appeared in person and made the payments upfront deserving to them an immediate allotment. Neither the membership of those persons nor the allotment could, therefore, be disputed. The further objection on behalf of the respondents was that all the 109 members have themselves been not impleaded and a challenge to their allotment cannot be made in their absence. The challenge to the resolutions dated 12.09.2004 and 06.02.2005 were themselves not tenable in view of the fact that

the Competent Authority had already upheld the resolutions and the only remedy if at all was to file a revision against the same.

11. It is submitted on behalf of the society that there have been other problems compounding the immediate allotment of the flats to the members. Some criminal cases had been filed and they are still pending. As of now 338 flats are already made ready and the plan has been finalized to increase the number to 419 flats, which could still go up to 460 flats with the prospect of FAR being increased. Out of the total flats, which are constructed already as a first phase, allotments have been made to 104 persons, who have also occupied the construction as nearing completion and the Society will have no objection for allotment of the remaining flats to the members of Society in any manner as the Court to direct it.

12. The process should proceed not in a contentious fashion but it should begin on the basis of trust from the stage where the petitioners are assured of the status as members, who are entitled to the respective allotments. There ought to be certainty regarding the genuineness of the membership of 109 members whom the Financial Commissioner has by his order already approved. If the allotments have already been made to 104 members without addressing the claims of 285 genuine members including the petitioner, their grievance is legitimate. The allotment made already by the Society to 104 persons when the proceedings were still pending and when the members have been clamouring for

immediate allotments do not appear to be justified. Still, if there are adequate flats available for the genuine members, the wrong allotment need not be disturbed. This is not perhaps an ideal situation but what is exigent and practical. The allotments already made and where 104 members are reported to have occupied in the first phase shall not required to be set aside but would require to be ratified if they fall within certain parameters hereinafter outlined. I am alive to the situation that illegal allotments or out of turn allotments cannot obtain any legitimacy, for gravest situations have come by Courts when entire edifice of construction made was also directed to be demolished and the property vacated by a builder in the decision of the Hon'ble Supreme Court in *M.I. Builders Private Limited Vs. Radheshyam Sahu 1999 (6) SCC 464*. In that case the Hon'ble Supreme Court was dealing with an allotment made by resolution of the Municipal Committee when the builder had excavated large portions of land in a public park and had completed the construction close to 80% for what was to accommodate air-conditioned shops. The constructions were made with the aid of an interim order from the Hon'ble Supreme Court. When the ultimate dispensation by the Hon'ble Supreme Court was that the initial sanction for construction had been wrongly made, it did not allow the arguments of equities to come in the way and directed the demolition of the entire structure worth several crores of rupees. In the decision that I have taken, no demolition is

ordered. It is only to set the equity in place that the persons, who become members later but who have been allotted the apartments and reported to have made the improvements need not be asked to surrender possession, provided they are not otherwise disqualified to be members and actually taken possession and effected improvements. It has been held by the Hon'ble Supreme Court in *I.L.Dhingra v State of U.P. (1987) 2 SCC 533* that allotments made in respect of buildings should not be disturbed on the applications of persons who have approached the court after a long delay. In this case, there is perhaps no delay, but there is no dearth of flats for allotment. Some of them have been observed by the Secretary in the impugned order have come to the succor of the society at the time when it faced with resumption action by PUDA for non-payment of the consideration. That should settle one bit of equity in their favour.

VII. Present Disposition

(a) To be carried out through an Administrator

13. (i) The full consideration for the property payable to PUDA shall first be paid from the existing funds of the society. If the funds are not sufficient, the amount that remains due shall be reckoned per capita from among the 285 genuine members already elicited by the scrutiny committee, provided however the amount payable, including the amount already paid to the society by each of the members, shall be uniform.

(ii) The property would require to be personally visited to ascertain the actual number of flats that are fully ready, both masonry and as regards amenities of plumbing, electricity, water supply and sewerage. If they are not fully ready, the stage of construction shall be ascertained with the building contractor who has been entrusted with the job of construction.

(iii) If there is a full-fledged sanctioned plan for 338 flats, which are already complete, the allotment shall proceed first by issuing notices to the persons identified as genuine members giving them a schedule of payment indicating the specific dates before when the amounts shall be paid and indicating a time line before when the property shall be delivered.

(iv) The completed constructions other than the flats reported to have been delivered to 104 new members have to be allotted in the order of seniority from among the 285 members identified as genuine and who have already paid the full price for the flats.

(v) From among the 285 members shall be the next in priority of persons who have paid the amounts partially and who make the payments for the whole of the consideration within a period of 15 days from the date when the notice is sent to each of the members found eligible for allotment.

(vi) If the flats available for allotment fall short of completed construction, the consideration proportionate to the percentage of completed construction shall be collected and of the remaining portion, when it is made ready for delivery.

(vii) Any delay in making the payment within the time stipulated shall result in reassigning the seniority and slide to the lowest entry in the list of allottees, with the corresponding loss of expressing preference in the choice of flats.

(viii) The genuineness of 109 new members will be ascertained with reference to the membership eligibility criteria specified in the bye-laws and after hearing objections, if any, from the genuine members within a period of 15 days from the date when notice is given to prove the genuine membership.

(ix) If, from among the 109 members, the members are identified as genuine and have been already allotted the flats with possession already given, they shall be allowed to retain the flats.

(x) If, from among the 109, membership as regarding eligibility is not established, but they have obtained allotment and possession, they shall forfeit their right of possession and flats that are so vacated shall be reckoned as available in the pool of flats fit for

allotment. If there is any obstruction caused to the re-delivery of possession, it shall be taken through this court with the help of bailiff and the costs of taking possession will be recovered by the person causing obstruction.

(xi) If, from among the 109 persons, membership is proved but not delivered possession of any flat, they shall rank below the 285 members in the order in which they were inducted into membership.

(xii) In the order of seniority, if members have been inducted on the same date, the older age of the member as established by birth certificate, school certificate, entry in passport or service records shall determine the seniority and if date of birth are also same, the seniority shall be determined by draw of lots.

(xiii) No fresh membership will be enlisted without fully exhausting the allotments to all the existing members.

(xiv) For giving effect to the scheme of allotment envisaged in this order, Sh. Girish Agnihotri, Sr. Advocate is appointed as the Administrator and Ms. Dinay Jeet Sheron, Advocate, Chandigarh is appointed as his Assistant.

(xv) The remuneration for Sh. Girish Agnihotri, Sr. Advocate shall be Rs.50,000/- and for Ms. Dinay Jeet

Sheron, Advocate shall be Rs.25,000/- which shall be paid out of the funds of the Society to be taxed equally among the members who obtain allotment of the flats.

(xvi) The entrustment of the work to the Administrator shall be deemed to be complete if allotments are made to all the genuine members and future allotments for members that may be enlisted shall be through the lawfully elected office bearers of the society.

(b) Non-genuine members, but allotted with flats shall surrender possession without claiming compensation

14. For any improvements or alterations, which have been made by members but which are cancelled, the persons whose allotments have been cancelled shall not be entitled to any compensation, for they have come by allotment, which is irregular and which is being set aside. The persons, who have secured out of turn allotments and who are ineligible to be members are entitled to no equity and they cannot also complain that they were not impleaded as parties. In order, however, that the flats allotted to these members are resumed and handed over to the members in order of seniority, the Administrator shall serve notices to them giving them a time not less than one month for vacating the premises. Requirements of natural justice are flexible as the Hon'ble Supreme Court held in ***Shiv Sagar Tewari Vs. Union of India 1997 1 SCC 444*** and a collective personal hearing that the

Committee offered ought to be treated as sufficient. 'Natural justice is not after all an unruly horse and no lurking landmine.' Its unnatural expansion without reference to these reliefs can be exasperating as held by the Hon'ble Supreme Court in *Shiv Sagar Tewari's case*. It has been held by the Hon'ble Supreme Court in *Chaman Lal Singal Vs. HUDA 2009(4) SCC 369* that cancellation without even notice will be justified if there is a non-compliance of conditions of allotment or relating to payment. It was also found as justified in *Meerut Development Authoirty Vs. Association of Management Studies 2009 (6) SCC 171*.

(c) CBI enquiry not warranted; regular criminal investigation by State Police would meet the ends of justice

15. The request for institution of a CBI enquiry, in my view, is not necessary. It has been a constant refrain that the CBI is understaffed and over worked and unless in matters affecting grave national interest, extreme depravity or large conspiracy, which would require the premier investigating agency should be pressed into action, there shall be no need to order a CBI enquiry. Further, the fact that there had been nepotism in the matter of allotment of flats to 104 persons is a matter found by the Secretary, Financial Commissioner as well as the Registrar of Co-operative societies. Criminal cases are reported to have registered and they will take its own course and it is only hoped that the guilty are brought to book and does not turn out to be a damp squib. If there is found mismanagement, it shall avail to no one's

benefit to allow the bad blood to continue and pursue the witch-hunt, at this stage when allotments are bound to fructify with minimal intervention. It is time to bury the hatchet.

16. The prayer for CBI enquiry is rejected. The orders of the Secretary, Finance Commissioner, the Registrar and the Deputy Registrar shall stand modified and conform to the directions contained in the writ petition. Any proceeding pending as regards the membership to the society or allotment of flats before the government or any authority other than this court shall abate and shall be dismissed to fall in line with the remedies provided in this writ petition.

17. List the case on 31.03.2010 with the report of Administrator.

**(K. KANNAN)
JUDGE**

January 12 , 2010
Pankaj*