

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

CIVIL MISC. NO. _____ OF 2010

IN

C.W.P. NO. 7742 OF 2007.

Satinder Pal Singh and others.

... PETITIONERS.

VERSUS.

State of Punjab and others.

... RESPONDENTS

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PLACE: CHANDIGARH

DATED: 23.04.2010

(PUNEET BALI)

P-1117/95

(RANJIT SAINI)

(GURVINDER S. BHATTI)

P-598/92

P-1181/04

ADVOCATES

COUNSEL FOR RESPONDENT NO.4-SOCIETY

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

CIVIL MISC. NO. _____ OF 2010

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C.W.P. NO. 7742 OF 2007.

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Application under Section 151 of CPC for exemption from filing the certified and typed copies of Annexure A-1 to A-7.

RESPECTFULLY SHOWETH:-

1. That the above mentioned writ petition is pending adjudication before this Hon'ble Court and is now fixed for 6.05.2010.
2. That the certified copies of Annexure A-1 to A-7 are not readily available with the applicant-respondent No.4-society and the applicant craves indulgence of this Hon'ble Court to place on record photocopies of the documents Annexure A-1 to A-7.

It is, therefore, respectfully prayed that the present application may kindly be allowed and respondent No.4-society may kindly be exempted from filing the certified and typed copies

and permitted to file the photocopies of the same, in the interest of justice.

PLACE: CHANDIGARH
DATED: 23.04.2010

(PUNEET BALI)
P-1117/95

(RANJIT SAINI) (GURVINDER S. BHATTI)
P-598/92 P-1181/04
ADVOCATES
COUNSEL FOR RESPONDENT NO.4-SOCIETY

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA

AT CHANDIGARH

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Affidavit of Lovleen Bhupinder Kaur, President,
United Cooperative House Building Society,
Sector 68, Mohali.

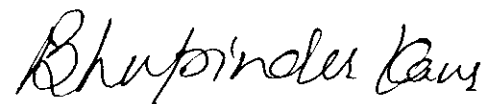
I, the above named deponent do hereby solemnly affirm and
declare as under:-

1. That the above mentioned writ petition is pending
adjudication before this Hon'ble Court and is now fixed for
6.05.2010.
2. That the certified copies of Annexure A-1 to A-7 are
not readily available with the applicant-respondent No.4-society

and the applicant craves indulgence of this Hon'ble Court to place on record photocopies of the documents Annexure A-1 to A-7.

Place: Chandigarh

Dated: 23-04-2010



DEPONENT

VERIFICATION:

Verified that the contents of my above affidavit contained in para No. 1 and 2 are true and correct to my knowledge. No part of it is false and nothing has been concealed therein.

Place: Chandigarh

Dated: 23-04-2010



DEPONENT

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

CIVIL MISC. NO. _____ OF 2010

IN

C.W.P. NO. 7742 OF 2007.

Satinder Pal Singh and others. ... PETITIONERS.

VERSUS.

State of Punjab and others. ... RESPONDENTS

Application under Section 151 of CPC for placing
on record the Response to the report of the
Administrator alongwith annexures.

RESPECTFULLY SHOWETH:-

1. That the above mentioned writ petition is pending adjudication before this Hon'ble Court and is now fixed for 6.05.2010.
2. That the respondent No.4-society intends to place on record the response to the report of the Administrator in terms of order dated 31.03.2010. which is being placed on record detailing the documents supplied to the Ld. Administrator, which are annexed herewith and marked as Annexure A-1 to A-7.

It is therefore, respectfully prayed that the present application may kindly be allowed and the respondent No.4-society

may kindly be permitted to place on record the response to the report of the Administrator in terms of order dated 31.03.2010 alongwith annexures, in the interest of justice.

Note: Affidavit is not required.

PLACE: CHANDIGARH
DATED: 23.04.2010

(PUNEET BALI)
P-1117/95

(RANJIT SAINI) (GURVINDER S. BHATTI)
P-598/92 P-1181/04
ADVOCATES
COUNSEL FOR RESPONDENT NO.4-SOCIETY

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

IN C.W.P. NO. 7742 OF 2007.

Satinder Pal Singh and others. ... PETITIONERS.

VERSUS.

State of Punjab and others. ... RESPONDENTS.

RESPONSE, ON BEHALF OF RESPONDENT NO. 4-
SOCIETY, TO THE REPORT OF ADMINISTRATOR
DATED 29.3.2010.

.....

RESPECTFULLY SHOWETH :-

1. That at the outset, the Respondent No. 4-Society would like to bring to the notice of this Hon'ble Court that it has made every endeavour to supply each and every document/information asked for by the Administrator from time to time. After this Hon'ble Court was pleased to pass Order dated 12.01.2010, the Respondent No. 4-Society, wrote a letter No.

admin/hc/uni/10/1525 dated 20.01.2010, sent through Registered Post on 24.02.2010 welcoming the Administrator and assuring him of cooperation and diligence to supply each and every information/document as required by the Administrator. A copy of letter dated 20.01.2010 is annexed herewith and marked as **Annexure A-1**. Thereafter, on 02.03.10 Respondent No. 4-Society received a letter dated 13.02.2010, in which the learned Administrator had asked for certain date bound information. In response to the said letter dated 13.02.2010, which was received by Respondent No. 4-Society as late as 02.03.2010, Respondent No. 4-Society wrote a letter No admin/hc/10/1559 dated 10.03.2010 supplying all the documents, as asked for by the Administrator. The documents supplied by the society vide its letter dated 10.03.2010 were as under:-

- a) Authenticated list of 285 members, was attached as Appendix 'A' .
- b) Chart showing information - asked by Administrator was attached as Appendix 'B' .
- c) Name and complete address and other details of Contractors was attached as Appendix 'C'.
- d) Details of construction along with Flat Number was attached as Appendix 'D'.
- e) Sanctioned Plan for 364 Flats was attached as Appendix 'E'.

- f) List of members identified as genuine out of 285 Members was attached as Appendix 'F'.
- gi) List of genuine members showing payment made and amount due towards total tentative cost was attached as Appendix 'G'.
- h) A list of 104 members category-wise, who are in possession of the Flats was attached as Appendix 'H'.
- i) Detail of seven members out of the 104 members who are in possession of Flats, but inspite of repeated requests/notices, failed to pay tentative cost of the Flats and were expelled by the General Body meeting was attached as Appendix 'J'.
- j) List of genuine members out of 285 members, who had paid full tentative cost of the dwelling units was attached as Appendix 'K'.
- k) List of 285 members showing total payment made by each member was attached as Appendix 'L'.
- l) List of total number of Flats available for allotment as on date, i.e. 60 Flats, list was attached as Appendix 'M'.
- m) List of 38 members out of 109 Members, who are already in possession of the Flats was attached as Appendix 'N'.
- n) List out of 109 members who are not allotted flats, was attached as Appendix 'O'.

- o) List of members (out of 109 members) whose membership is not established and are not considered as genuine members but are in possession of Flat or have been allotted Flats was attached as Appendix 'P'.
- p) Details of members identified as genuine out of 109 members, but were not allotted or given possession and are to be ranked below those identified as genuine out of 285 members, were attached as Appendix 'Q'.
- q) Seniority-wise list of members, identified as genuine out of 285 and 109 members, were attached as Appendices 'Q' and 'R' respectively.
- r) Photo copy of the last date of allotment of land as recorded in the proceedings book on 16.02.2005, was attached as Appendix 'S'.

A copy of the letter dated 10.03.2010 sent to the Administrator is annexed herewith and marked as **Annexure A-2**.

In addition to the above information supplied to the administrator, it was further requested that every other information required by the learned Administrator will be provided as and when asked for.

2. That after the respondent No.4-society submitted the complete set of information as asked for by the Ld. Administrator, messages were sent to all the members of the society to match

their personal information with the data submitted to the Ld. Administrator. Many members came and produced receipts regarding payments made by them to respondent No.4-society and also produced other information which was not earlier in the possession of the present management of the society, because the complete record was never handed to the incumbent Management by the previous management. The respondent-society checked the veracity of the data/ information submitted by the members and after verifying correctness of the entire data/information submitted it to the Ld. Administrator. Therefore the respondent No.4 society wrote another letter bearing No.Admn/hc/uni/10/1565 dated 17.03.2010 and forwarded following documents to the Ld. Administrator :-

- a) A copy of Interim Order passed by the Arbitrator, appointed by this Hon'ble Court in C.W.P. No. 20514 of 2008. A copy of the same was attached as APPENDIX 'A'.
- b) Copies of the amendments made by the Assistant Registrar, Cooperatives Societies, Mohali in the certified list of 285 members of the Society were attached as Appendix 'B'.
- c) Amended list of 285 genuine Members was attached as Appendix 'C'. Certain members had submitted fresh data to the Society due to which amendments

had to be made in the list of 285 members, already submitted to the Administrator.

- d) List of 109 members showing some minor changes over the list already submitted to the learned Administrator was attached as Appendix 'D'
- e) It was further clarified that the total members of the Society are 496. Certified copy of 496 members was attached as APPENDIX 'E'.
- f) It was further clarified that in addition to 285 and 109 members, which find mention in the Order dated 12.01.2010 passed by this Hon'ble Court, there are 101 members, whose names do not find mention in these orders, but were declared genuine members by the Financial Commissioner, vide order dated 26.07.05. The list of these 101 members was attached as APPENDIX 'F' .

A copy of letter dated 17.03.2010 sent to the Administrator annexed herewith and marked as **Annexure A-3** .

3. That thereafter respondent No.4-society received a letter dated 16.03.2010 on 18.03.2010 from the office of the learned Administrator. In response to the above mentioned letter dated 16.03.2010, Respondent No. 4-Society wrote a letter No. Admn/hc/uni/10/1580 dated 22.03.2010 which was sent through

registered post. In this letter, the Society submitted each and every information as required by the learned Administrator. In this letter details regarding payments to be made to the PUDA (now GMADA) and also the sanctioned plan for 364 Flats as approved by the competent authority, i.e. GMADA were submitted. Further, the following documents were attached with the letter dated 22.03.2010 :-

- a) Interim directions passed by the Arbitrator appointed by this Hon'ble Court was attached as Appendix 'A'.
- b) Certified list of 285 members received from the Cooperative Department, Punjab, was attached as Appendix 'B'.
- c) Seniority-wise list of 285 members was attached as Appendix 'C'.
- d) List of members out of 285 members who have paid full tentative cost was attached as Appendix 'D'.
- e) List of members considered genuine out of 285 members was attached as Appendix 'E'.
- f) List of members out of 285 showing balance payment due was attached as Appendix 'F'.
- g) Certified list of 109 members as received from Cooperative Department, Punjab, was attached as Appendix 'G'.

- h) Seniority List of 109 members was attached as Appendix 'H'.
- i) Certified list of total 496 members as received from Cooperative Department, Punjab was attached as Appendix 'J'.
- j) List of 104 members' category wise who are in possession of Flats was attached as Appendix 'K'.

A copy of the letter dated 22.03.2010 sent to the Learned Administrator are annexed herewith and marked as **Annexure A-4.**

4. That the above-said information was supplied to the learned Administrator as and when demanded by him. That it is pertinent and apposite to mention herein that a perusal of the above information supplied to the learned Administrator would show that the following facts emerge from the above information which need consideration of this Hon'ble Court :-

- a) That as on today, the total number of members of the Respondent No. 4-Society is 496. This includes 285 genuine members elicited by the scrutiny committee plus 109 members and 101 members, who were admitted to the membership of the Society and had been declared to be genuine by the Financial Commissioner, Punjab, vide Order dated 26.07.2005.

b) Out of the initial list of 285 members, who were declared to be genuine by the Scrutiny Committee, only 264 members have deposited their dues towards the land cost. Out of these 264 members, 113 members have already alienated their memberships in the name of other members. Another 21 members never responded to the notices issued by the Respondent No. 4-Society, making demands for payment of the their share of land cost, which would have entitled them to allotment of a dwelling unit. It is most humbly submitted that these members who have not deposited the basic land cost/ tentative cost of dwelling unit and have deposited only the share money amounting to Rs.100/- or 500/- , may not be considered for allotment of dwelling unit by this Hon'ble Court.

c) That after the list of 285 members, comes the list of 109 members and 101 members, who were declared genuine by the Financial Commissioner, Punjab vide his order dated 26.07.05 (Annexure P-10). Out of these 109 and 101 members, most of them had made the entire payments towards the cost of the dwelling units. It was only because of the payments made by

these members that the Society was able to pay the land cost to the PUDA/GMADA.

- d) It be further mentioned that after this Hon'ble Court was pleased to pass the Order dated 12.01.2010, the members from the list of 109 members deposited an amount of Rs.21.00 lacs and members out of the list of 101 members deposited an amount of Rs.40.85 lacs to the Society, which stands in contrast to the petitioners, who have not deposited even a single penny, despite the fact that they stand in arrears of lacs of Rupees and the fact that amount towards land costs was to be deposit to the GMADA by a fixed date. It was because of the payments made by 109 and 101 members who contributed substantially to the accounts of the society that the Society was able to make a payment of Rs.2,38,00,000/- to the GMADA by due date in pursuance of the directions issued by the learned Arbitrator appointed by this Hon'ble Court.
- e) It is pertinent and apposite to mention here that the total sanctioned plan for construction as approved by GMADA is for 364 Flats. Out of these 364 Flats, 104 Flats are already in the possession of members and rest is under construction. 56 flats are such in which

masonry work is complete but the Water Connection and Sewerage Connection are yet to be provided. Further the tentative cost payable by each member is as under:-

-	Ground Floor	:	Rs.12.65 lacs
-	First Floor	:	Rs.12.65 lacs.
-	Second Floor	:	Rs.12.50 lacs
-	Third Floor	:	Rs.12.35 lacs
-	Fourth Floor	:	Rs.12.15 lacs

This tentative cost is subject to revision as per final calculations to be made by the Society on completion of the project. Any enhanced amount which may accrue towards these 104 and all other members after final calculations shall have to be paid by them as and when demanded from them. It is further pertinent and apposite to mention here that out of 104 members who are in possession of the flats, 7 members stand expelled from the primary membership of the society because of non-payment of tentative cost of dwelling unit by them. Another 39 members out of 104 who are in possession of the flats have been given an illegitimate concession of Rs.1.00 lac out of the total payment due from them

towards the tentative cost of the dwelling unit. This concession of Rs. 1 lac was given by the previous management of the society in an arbitrary manner. These members are fighting a case to legitimize this concession in the court of Additional Registrar Co-operative Societies Punjab. In addition to above, one Shri Swarn Singh Ex President/ Honorary Secretary of the society also stands expelled from the primary membership for having embezzled about 50 Lacs of society funds.

5. That at this stage it is also pertinent and apposite to mention certain observation made by the Learned Administrator at page No. 10 of the report. The learned Administrator has concluded as under:-

"On the visit to the site (as has been mentioned in detail in Para -3 above), on a specific question to the office bears(s) present there, it was informed the building contractor(s) who was/were entrusted with the job of construction were not present. One Mr. Tanjinder Singh, whom the Hony. Secretary introduced as Building contractor of the Block Nos. 2 & 3 was present there. We had specifically asked him alongwith Hony. Secretary to show some documents like Drawing, Maps, letter awarding the construction work, some identity card, copy of work order etc. but

he was not able to supply the same. Then they requested that we shall bring the same within 10 minutes. However, no document has been shown by them till the completion of the visit.”

In response to the above observation made by the Ld. Administrator, it is most humbly submitted that society has made every endeavour to provide each and every detail/ information to the Ld. Administrator. Even at the time when the Ld. Administrator visited the society, he was provided every assistance by the society. The Architect namely Shri Vinod Joshi was present at the society premises to assist the Ld. Administrator and informed him about the construction being undertaken at the society premises. Mr. Tejinder Singh, who has been wrongly named as Tanjinder Singh was present at the society premises on behalf of Add On Builders Pvt. Ltd. to inform the Ld. Arbitrator about the construction being carried out by the said Add On Builders. The construction plan sanctioned for 364 flats was also produced before the Learned Administrator on his demand.

Further in the Final Conclusion at page 20 of the report the Learned Administrator as concluded as under:-

“Final Conclusion:

1. On visit at site it was found that wrong picture was given to the Hon'ble court as if 100 flats 'fully ready in all respects' are lying vacant/unoccupied.

Therefore, it is only with the help of technical experts in each field that, each stage off construction, valuation etc. can be ensured.”

It is most humbly submitted that the society never submitted before this Hon’ble Court 100 flats are fully ready in all respects are lying vacant/unoccupied. Rather the stand of the society has been that the construction at the society premises is at various stages of completion. Some of the flats are fully complete in respect of masonry work but the work regarding provision of other amenities like sewerage, electricity connection and water connection is yet to be completed which is done at the last. It has been submitted by the society that these flats regarding which the masonry work is completed can be fully ready within a period of 3 months and rest of the flats can be made ready for possession within 1 year subject to the condition that members make their payments towards the society in time. The construction can only be completed when the society makes the timely payment to the contractors which in turn is contingent on the fact that members make timely payments to the society.

At para 4 of the Final Conclusion in the report, at page 21, the Ld. Administrator has concluded as under:-

“4. By the same order I have directed the Society to place before this Hon’ble Court the complete

particulars of 285 genuine members in the serial order and manner mentioned therein.”

In response to the above conclusion by the Learned Administrator, it is submitted that the respondent-society has submitted the entire details of 285 members to the Ld. Administrator. The first list of 285 members was supplied to the Learned Administrator vide letter No. admin/hc/10/1559 dated 10.03.2010 in which the list of 285 members was attached as Appendix-'B' ,Thereafter a certified copy of 285 members as obtained from the office of the Registrar Cooperative Societies was supplied to the Learned Administrator vide letter dated admin/hc/10/1559 dated 10.03.2010 attached as Appendix 'A'.

6. That latest lists of members submitted to the Ld. Administrator were displayed on the notice board at the society premises on 10.04.2010 and all the members were requested through SMS to verify their data. Some members have come forward with data which has necessitated certain changing even in the latest list forwarded to the Ld. Administrator. Therefore, amended list were prepared after incorporating the data supplied by the members after the submission of the documents to the Ld. Administrator. The said amended lists compiled by the society are annexed here with and Marked as **Annexure A-5, A-6 and A-7** respectively.

Therefore, in view of the submissions made herein above, it is most respectfully prayed that the documents being annexed alongwith the present application and the submissions made herein above may kindly be considered before passing the final order in the present case.

PLACE: CHANDIGARH
DATED: 23.04.2010

(PUNEET BALI)
P-1117/95

(RANJIT SAINI) (GURVINDER S. BHATTI)
P-598/92 P-1181/04
ADVOCATES
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