

In the Court of B.S.Sudan, IAS, Secretary Cooperation (A), Punjab, Chandigarh. (Exercising the powers of the State Government under Section under section 69 of the Punjab Cooperative Societies Act)

Coop. 10 of 2006



1. Sh. Sanjoo Pandita s/o late Sh. Radha Kishan, r/o Flat No. 121, The United Cooperative House Building Society Ltd. Sector 68, Mohali.
2. Col. Rajiv Sachan s/o Sh. S.D.Singh, r/o Flat No. 213, The United Cooperative House Building Society Ltd. Sector 68, Mohali.
3. Sh. Jagmohan Singh Dara s/o Sh. Agya Singh, r/o Flat No. 113, The United Cooperative House Building Society Ltd. Sector 68, Mohali.
4. Sh. Susheel Kotha s/o Sh. C.L.Kotha, r/o Flat No. 225, The United Cooperative House Building Society Ltd. Sector 68, Mohali.
5. Sh. Rajiv Mattoo s/o Sh. M.K.Mattoo, r/o Flat No. 241, The United Cooperative House Building Society Ltd. Sector 68, Mohali.
6. S. Tarlochan Singh s/o Sh. Jagat Singh, r/o Flat No. 221, The United Cooperative House Building Society Ltd. Sector 68, Mohali.
7. Sh. Arun Sharma s/o Sh. B.D.Sharma r/o Flat No. 212, The United Cooperative House Building Society Ltd. Sector 68, Mohali.
8. Sh. Thomas Joseph s/o Sh. V.M.Joseph, r/o Flat No. 215, The United Cooperative House Building Society Ltd. Sector 68, Mohali.
9. Sh. Daljit Singh s/o Sh. Gurbax Singh, r/o Flat No. 134, The United Cooperative House Building Society Ltd. Sector 68, Mohali.

...Petitioners

Versus

1. The Registrar, Cooperative Societies, Punjab, Chandigarh.
2. The Joint Registrar, Cooperative Societies, Patiala Division, Patiala.
3. The Deputy Registrar, Cooperative Societies, Ropar.
4. Supervisory Committee, the United Cooperative House Building Society Ltd. Sector 68, Mohali (Daun) through the Chairman.
5. Sh. Gurdeep Singh, Assistant Registrar, Cooperative Societies, Mohali, Punjab (office in Milk Plant, Mohali).

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6. The United Cooperative House Building Society Ltd. Sector 68, Mohali (Daun) through its Supervisory Committee.
7. Rajinder Kumar Gaur
8. Pawan Kumar
9. Savita Sharma
10. Jagdish Singh
11. Gurmail Kaur
12. Parmod Gupta
13. P.S.Sher Gill.
14. Rajiv Gupta
15. Satinder Pal Singh
16. Harbans Singh
17. Jatinder Pal Singh
18. Labh Singh
19. Vimal Shukla
20. Gurpreet Kaur
21. Swinderjit Kaur
22. Gurmeet Singh
23. Rajinder Kumar
24. Mohinder Pal Singh
25. Narinder Kaur
26. P.N.Jindal

(respondents No. 7 to 26 alleged members of the United Cooperative House Building Society Ltd. Sector 68, Mohali (Daun) through Sh. Ajay Mahajan, Advocate, H. No. 1529, Sector 18-D, Chandigarh.

...Respondents

Coop. 270 of 2006

The United Cooperative House Building Society Ltd. Sector 68, Mohali (Daun) through its President S. Swaran Singh.

...Petitioners

Versus

1. The Registrar, Cooperative Societies, Punjab, Chandigarh.
2. The Joint Registrar, Cooperative Societies, Patiala Division, Patiala.
3. The Deputy Registrar (Legal), Cooperative Societies, Punjab, Chandigarh.

ਕਿੱਸੇ ਗਿੱਬਿਬਿਠਰ ਦਫ਼ਤਰ ਪੰਜਾਬ ।  
ਕਲ ਨਵੀਂ

ਕਰਮ ਨਵੀਂ  
ਵਿੱਤੀ ਕਮਿਸ਼ਨਰ ਦਫ਼ਤਰ ਪੰਜਾਬ

4. The Deputy Registrar, Cooperative Societies, Ropar.
5. Sh. Gurdeep Singh, Assistant Registrar, Cooperative Societies, Mohali, Punjab (Office in Milk Plant, Mohali.)
6. Rajinder Kumar Gaur
7. Pawan Kumar
8. Savita Sharma
9. Jagdish Singh
10. Gurmail Kaur
11. Parmod Gupta
12. P.S.Sher Gill.
13. Rajiv Gupta
14. Satinder Pal Singh
15. Harbans Singh
16. Jatinder Pal Singh
17. Labh Singh
18. Vimal Shukla
19. Gurpreet Kaur
20. Swinderjit Kaur
21. Gurmeet Singh
22. Rajinder Kumar
23. Mohinder Pal Singh
24. Narinder Kaur
25. P.N.Jindal

(respondents No. 6 to 25 alleged members of the United Cooperative House Building Society Ltd. Sector 68, Mohali (Daun) through Sh. Ajay Mahajan, Advocate, H. No. 1529, Sector 18-D, Chandigarh.  
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Present: Sh. Ashwani Prashar, Adv. for petitioner in Coop. 10 of 2006  
Sh. Harit Sharma, Adv. for petitioner in Coop. 270 of 2006  
Sh. Ajay Mahajan, Advocate for private respondents.  
Sh. R.S.Mann, DRCS (L) o/o RCS, Punjab.  
Sh. Parveen Bansal, ARCS, Mohali.  
Sh. Swaran Singh, President of the Society.  
Sh. Malkiat Singh, impleaded respondent.

ORDER:

These are two revision petitions filed under Section under section 69 of the Punjab Cooperative Societies Act, 1961 (hereinafter referred to as the Act) against order dated 27.12.2005 passed by Deputy Registrar (Legal), Cooperative Societies, Punjab, Chandigarh vide which the resolutions dated 12.9.2004 and 16.2.2005 passed by the General Body and Managing Committee of the United Cooperative House Building Society Ltd. Daon (Mohali) (hereinafter referred to as the Society) set aside.

2. The brief facts of the case are that private respondents had filed a petition under Rule 80 of the Punjab Cooperative Societies Rules, 1963 (hereinafter referred to as the Rules) read with Section 3(4) of the Act before the Additional Registrar G), Cooperative Societies, Punjab for setting aside the resolutions dated 12.9.2004 and 16.2.2005 vide which the Society allotted flats to its members being contrary to the directions of the Registrar, Cooperative Societies, Punjab and without following due procedure laid down in Rule 80 of the Rules, which was ultimately heard by the Deputy Registrar (Legal) and he set aside the resolutions dated 12.9.2004 and 16.2.2005 and ordered that the Society may take further steps for re-allotment of flats in accordance with law to the members of the Society vide order dated 27.12.2005. Aggrieved with this, the petitioners have filed the present revision petitions.

3. The counsel for the petitioners contended that the Society did not represent before the Deputy Registrar as the Managing Committee was not existing. The Society was represented through the Supervisory Committee before the Deputy Registrar. The constitution of the Supervisory Committee has already been declared as ultra vires of the Act by the Ld. Financial Commissioner, Cooperation, Punjab vide order dated 16.12.2005 while granting stay in the case of Col. Rajiv Sachan and others Versus R.C.S., Punjab etc. Furthermore, the Deputy Registrar has not noticed the stay order dated 16.12.2005 while deciding the case under Rule 80 of the Rules on 27.12.2005. Accordingly, all actions of the Supervisory Committee are equally null and void. Counsel for the petitioners further argued that the members to whom the flats

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have been allotted were not impleaded as party before the Deputy Registrar, which is mandatory to defend their rights against whom the orders have been passed by the Deputy Registrar on 27.12.2005. It was further argued that the allotments made by the Society on 12.9.2004 and 16.2.2005 have been ratified by the new Managing Committee of the Society vide resolution dated 9.4.2006. As such, there is no violation of Rule 80. Accordingly, the revision petition may kindly be accepted and the order of the Deputy Registrar (L) may kindly be set aside. Counsel for the petitioners also produced the following judgements in support of their claims:-

1. 1994 PLJ Page 6 – Balwant Singh Vs. U.T. Admn. & others
2. 1994 PLJ 68 – Brij Kishore Arora Vs. Administrator U.T., Chandigarh.
3. 2001(1) PLJ 162 – Mann Singh & others Vs. RCS, Punjab & others
4. 2007(1) SLR (SC) 525 – Maharashtra State Mining Corporation Versus Sunil
5. 2003(1) SCT 317 Balbir Singh & others Vs. RCS, Punjab & others

4. The counsel for the respondents argued that though Managing Committee of the society was not existing but the written statement on the basis of the record of the Society was filed by Sh. Dalbir Singh, ARCS, Ropar, who was also acting as a Chairman of the Supervisory Committee. The act done by Supervisory Officer does not become bad in view of the judgement of the Hon'ble Mr. Justice A.K.Goyal of Punjab and Haryana High Court. Thus, the Society was very well represented by the ARCS, Ropar on the basis of the record before passing the impugned order by the Deputy Registrar (Legal). Further, the stay was granted by the Ld. Financial Commissioner, Cooperation, Punjab on 16.12.2005 in another case titled as Col. Rajiv Sachan and others vs. RCS, Punjab, which does not relate to this case. Moreover, the Society was represented by ARCS, Ropar on the basis of record. Accordingly, the Deputy Registrar has passed the impugned order after carefully perusing the record of the Society. The learned counsel for the respondents further argued that the respondents has only challenged the allotment of flats which was allotted by the Society, accordingly the notice to the Society is the only requirement and all the petitioners

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and other members are not a necessary party. He further stated that the predecessor of this court had already stayed allotment of flats on 12.6.2006 and this is in the knowledge of the Society, therefore, the Society cannot ratify the allotment vide resolution dated 9.4.2006.

5. The counsel for the respondents further argued that the Deputy Registrar (L) in para no. 4 of the impugned order found that no notice was given by the Society to the R.C.S., Punjab or to members before passing the impugned two resolutions. Some flats were not allotted, some flats allotted twice, some flats allotted to non-members. The Society has not followed any procedure to allot the flats. Sh. Swaran Singh, who was the Hony. Secretary of the Society at the time of impugned resolutions and now is the President of the Society has adopted pick and choose policy as per his desire. The Deputy Registrar has passed very well speaking order, thus revision petitions may kindly be dismissed. The counsel for the respondents submitted the following judgements in support of his contentions:-

1. The Punjab Law Reporter (Vol. CIX-(1995-1) P. 293 – S.P.Chengalvaraya Naidu (Dead) by LRs Versus Jagannath (Dead) by LRs and others
2. 2002(1)RCR(Civil) 251 : 2002(2) PLR 665 – Hardyal Singh Versus The Registrar Cooperative Societies, Punjab, Chandigarh
3. Punjab Legal Reports and Statutes (Vol. 13) P. – Karam Chand Versus Additional Registrar (C) and others

He further submitted that the Secretary of the Society had issued letter on 9.9.2004 to the members of the Society to deposit Rs.2.35 lakh within 30 days so that their names could be considered for allotment of flats, whereas he allotted the flats on 12.9.2004 much prior to the expiry of 30 days without following any procedure.

6. Sh.Swaran Singh, President of the Society was particularly asked that what criteria had been adopted by the Society for allotment of flats to the members. He simply replied that allotments were made on the basis of first-cum-first served to the members who had deposited Rs.2.35 lakh up to the date of allotment.

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7. Sh. Malkiat Singh s/o Sh. Karam Singh appeared in person before this Court and stated that he is one of the genuine members of the Society and he has deposited Rs.7,90,000/- towards the land price and construction of flats. However, no flat has been allotted to him, whereas the Society allotted flats to the members in arbitrary and mala fide manner vide resolutions dated 12.9.2004 and 16.2.2005 without following any procedure and intimation to him and other genuine members of the Society. He prayed that the order dated 27.12.2005 of the Deputy Registrar may kindly be upheld and a direction may kindly be issued to the society to allot the flats afresh under the supervision of nominee of the Registrar office through draw among the genuine members of the Society.

8. I have heard the counsel for the parties and the President of the Society. The counsel of the petitioners and President of the Society were directed on 23.2.2007 to submit the list of members to whom the flats have been allotted vide resolutions dated 12.9.2004 and 16.2.2005 mentioning the name of the members, membership number, flat number and amount deposited by them and what criteria had been adopted by the Society at the time of allotment of flats to the members and list of defaulter members, on or before 26.2.2007. Since, the requisite information has not been submitted either by the Counsel for the Petitioners or by the President of the Society till date, it appears that the Society wants to conceal more and reveal less for the reasons best known to them.

9. I have perused the record of the case. I find that members were asked by the secretary of the Society vide letter dated 9.9.2004 to deposit Rs.2.35 lacs within thirty days from the issue of letter so that their names could be considered for allotment of flats, but ignoring this letter, the Society allotted the flats to members on 12.9.2004. Society has also ignored the (clause No.45(iv) of instructions issued by the Registrar, Cooperative Societies, Punjab vide letter No. Housing/AIII/Registration/RCS/161/Amendment/281 dated 2.5.2004, which was delivered to the Secretary of the Society on 13.7.2004. I have also found that few members have deposited more than RS.2.35 lacs but their names have not been considered by

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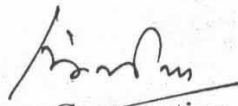


the Society for the allotment of the flats. Accordingly, the Society has not followed the procedure/criteria to allot the flats to the members of the Society and also violated Rule 80 of the Punjab Cooperative Societies Rules, 1963.

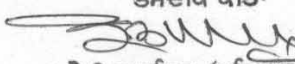
10. However, agreeing with the contention of the counsel for the petitioners that constitution of supervisory committee has been declared as ultra vires of the Act by Ld. Financial Commissioner, Cooperation, Punjab while granting stay on 16.12.2005 in the case of Lt. Col. Rajiv Sachin and others Versus RCS, Punjab and the all actions of the Supervisory Committee are equally null and void. However, the Society was duly represented through the Supervisory Committee before the DRCS(Legal) on the basis of record of the society.

11. In view of the above, the case is remanded back to DRCS (Legal) for passing fresh order after hearing the concerned parties within a period of two months. This case was reserved on 23.2.2007 and announced today. Parties be communicated.

Announced.  
19.03.2007

  
Secretary Cooperation  
Punjab

1) ਡੀ. ਡੀ-2 ਵਿਚ ਦਰਜ ਨੰਬਰ 27  
 2) ਅਰਜੀ ਦੀ ਸਿਫੀ 22/3/07  
 3) ਪੰਨਿਆਂ ਦੀ ਸਿਫੀ 8  
 4) ਬਣਦੀ ਵਾਸ ਕੀ 7  
 5) ਨਕਲ ਨਵਾਂ 5  
 6) ਇਆਰ ਕਰਨ ਦੀ 5  
 7) ਤਸਦੀਕ ਕਰਨ ਦੀ 22/3/07  
 8) ਜਾਰੀ ਕਰਨ ਦੀ ਮਿਤੀ 5  
 ਨਕਲ ਨਵਾਂ

ਤਸਦੀਕ ਕੀਤਾ  
  
 ਖੋਲੀ ਸਹਾਇਕ (ਸਹਿਕਾਰਤਾ)  
 ਆਦਾਲਤ ਸੰਯੁਕਤ ਸਕੱਤਰ ਸਹਿਕਾਰਤਾ  
 (ਅਪੀਲਜ਼) ਪੰਜਾਬ ਚੰਡੀਗੜ੍ਹ