

IN THE COURT OF SECRETARY TO GOVT. OF THE PUNJAB
COOPERATIVES DEPARTMENT

Case No.SO(JUDL)1-37/2017

Muhammad Abbas

(Appellant)

Versus

Deputy Registrar Cooperative Societies,
Lahore etc.

(Respondents)

APPEAL UNDER SECTION 64 OF COOPERATIVE SOCIETIES ACT
1925

Present:

1. Mr. Muhammad Kashif Shahzad, Advocate for the Appellant.
2. Mr. Zubair Mehmood Ch., Advocate for Employees Cooperative Housing Society Ltd. Lahore/Respondent No.2.

ORDER

This order will dispose of the appeal filed under section 64 of Cooperative Societies Act, 1925 against the impugned order dated passed by Deputy Registrar Cooperative Societies, Lahore.

2. Counsel for the appellant assailed the vires of impugned order on the ground that Deputy Registrar Cooperative Societies, Lahore (Respondent No.1) had passed the impugned order without considering the facts and record. Moreover, appellant was lawful owner of plot No. measuring 01-Kanal situated in main canal road of Employees Cooperative Housing Society Ltd. Lahore after payment of all the dues including development charges and society transferred plot No. in favour of his client vide transfer letter dated

Furthermore, he started construction over the plot after getting approval of part plan from LDA vide letter dated 22.05.2013. So demand of the society regarding payment of Rs.850,000/- in lieu of NOC for commercialization and development charges as per the so called agreement executed between the members and the society was illegal on the premise that appellant was not part of that agreement.

Besides, the society illegally got approved the commercialization fee and development charges from Annual General Meeting held on _____ without indicating the same as Agenda in AGM. Even otherwise, no approval was sought from Registrar Cooperatives Punjab regarding framing the commercialization fee and development charges as agenda in AGM. The counsel argued that LDA is the competent authority to issue NOC for the purpose of commercialization of plot. It was, therefore, prayed that impugned order of lower forum might be set aside in the interest of justice.

3. On contrary, counsel for Respondent No.2 contended that the society had rightly demanded Rs.850,000/- from the appellant regarding NOC for commercialization and development charges in pursuance of agreement executed between owners of plots situated at main road and the society. Moreover, the said agreement was also approved by the AGM held on _____. Besides, majority members whose plots were located facing canal had deposited requisite dues for the provision of NOC for commercialization except the appellant. Even otherwise, appellant was owner of residential plot bearing No. _____ measuring 01-Kanal in the society but he started commercial activity over his residential property in violation of society as well as LDA byelaws. Therefore, counsel prayed that Deputy Registrar Cooperative Societies, Lahore had rightly passed the impugned order with the direction to the appellant to make payment of Rs.850,000/- to the society within 15-days that might be upheld by rejecting the instant appeal in the interest of justice.

4. Arguments heard, record perused. Grouse of the instant appellant is that that _____ Employees Cooperative Housing Society Ltd. Lahore is demanding Rs.850,000/- (Rs.550,000/- as NOC for commercialization and Rs.300,000/- as re-development charges) from the appellant on account of _____

5. Perusal of record reveals that an inquiry under section 43 of Cooperative Societies Act, 1925 was conducted on certain allegations including the issue of commercialization of residential plots. The inquiry officer reported that minutes of AGM held on 30.03.2014 were tampered to the extent of commercialization of residential plots by the then Managing Committee. Further reported that even the case of commercialization was not placed before the General House. On the basis of this inquiry report, proceedings under section 50-A of Cooperative Societies Act, 1925 were initiated and Deputy Registrar Cooperative Societies, Lahore vide order dated held the commercialization of residential plots, null and void. In the above situation when the act of commercialization of residential plots has already been declared null and void by the competent authority, any demand of commercialization dues is illegal. Hence, the instant appeal is hereby accepted by setting aside the impugned order of lower forum.

(Fuad Hashim Rabbani)
Secretary to Govt. of the Punjab
Cooperatives Department

Dated _____

A copy of the order is forwarded for information and necessary action to:-

1. The Deputy Registrar Cooperative Societies, Lahore.
2. The General Secretary/President/Managing Committee of ECHS Ltd. Lahore (service through O/o DR CS Lahore)