

BEFORE THE DEPUTY REGISTRAR COOPERATIVE
SOCIETIES LAHORE

Rehman Saeed s/o Saeed Ahmed r/o House No. 15, B-Paarus Street X-Block Peoples colony Gujranwala

..... PETITIONER

V E R S U S

Aabpara housing scheme, LCCI Employees Cooperative Housing Society Ltd. Main Canal 18-KM, Multan Road Lahore through its General Secretary/President/Managing Committee etc.

..... RESPONDENT

PETITION UNDER SECTION 54 OF COOPERATIVE SOCIETIES ACT, 1925 READ WITH RULE 32 OF COOPERATIVE SOCIETIES RULES, 1927 ALONGWITH ALL OTHER ENABLING PROVISIONS OF LAW FOR SEEKING DIRECTION TO THE RESPONDENT THAT TO RESTORE, DECLARING THE LOCATION, TO HANDOVER THE PHYSICALLY POSSESSION TO PETITIONER OF PLOT NO. 119 MEASURING 01-KANAL 02-MARLAS 99 SQ FT

Present: - (i) Mr. Muhammad Kashif Shahzad, Advocate counsel for the petitioner.
(ii) Mr. Khursheed Alam Bhatti, Advocate counsel for the respondent society.

ORDER

The above titled petition was filed before this forum under section 54 of the Cooperative Societies Act (CSA), 1925. Mandatory notices under Rule 32 of the Cooperative Societies Rules (CSR), 1927 were served upon the parties. None of the parties appointed its arbitrator, therefore, the instant petition is decided as Registrar.

2. Briefly, the learned counsel of the petitioner stated that Mr. Aziz Ahmed (deceased) was the bonafide member of the LCCI Employees Cooperative Housing Society Ltd. Lahore vide membership No. 55 issued on 03.11.1984. Thereafter, the respondent society allotted plot No. 119 measuring 01-Kanal 02-Marlas 99-sqft. vide reference No. CHS/87/13/537 on 26.04.1987 to Mr. Aziz Ahmed (deceased). Mr. Aziz Ahmed (deceased) had paid full cost of land alongwith partial cost of development charges against plot No. 119 measuring 01-Kanal 02-Marlas 99 Sq.ft. on the demand of the respondent society. The counsel of the petitioner argued that Mr. Aziz Ahmed s/o Muhammad Hayat and his wife were died on 05.12.1987 and 19.01.2001 respectively leaving behind the seven (7) legal heirs. Thereafter, the legal heirs of Mr. Aziz Ahmed (deceased) approached the Civil Court for declaratory decree and the same had been issued by the learned Civil Judge 1st Class Lahore vide judgment and decree dated 08.12.2016. Therefore, the legal heirs visited the society office for incorporation of their names in the ownership of the plot No. 119 in place of Mr. Aziz Ahmed (deceased). The respondent society replied that the said plot had been cancelled due to nonpayment of

the society is going to convert it into the community center after the approval of revised layout plan. The counsel of the society prayed that the instant petition may be dismissed with heavy costs.

4. Hearing of arguments and perusal of relevant record led me to conclude that Mr. Aziz Ahmed is the member of the society having membership No. 55 and he had paid full cost of land against plot No. 119. Thereafter, the respondent society had allotted plot No. 119 measuring 01-Kanal 02-Marlas 99 sq.ft. on 03.11.1984 to Aziz Ahmed. The member had passed away on 05.12.1987. Thereafter, the legal heirs of Mr. Aziz Ahmed (deceased) approached the Civil Court for declaratory decree and the same has been issued by the learned Civil Judge 1st Class Lahore vide judgment and decree dated 08.12.2016. The respondent society had issued notices for payment of remaining development charges of Rs. 54,340/- to Aziz Ahmed (deceased) and also published proclamation in the daily newspaper "Nawa-e-Waqt" dated 13.10.2006 and 23.08.2007. It is observed that the said notices were not properly served and communicated to legal heirs of Aziz Ahmed (deceased). Thereafter, the respondent society had cancelled the plot in question on 25.03.2010 just on the default of meager amount of Rs. 54,340/- on the ground of resolution of Managing Committee meeting minutes dated 15.07.2007 and 09.09.2007.

5. This cancellation of the plot in question is a violation of Section 17-B of CSA, 1925 and rule 45-A of the CSR, 1927. It is held that the mandatory approval of the Registrar Cooperatives, Punjab as required in the aforesaid section and rule has not been obtained by the respondent society. Thus, the letter dated 25.03.2010 issued by the then secretary of the society for cancellation of plot in question is declared unlawful, illegal, transgression of power, misuse of authority and in violation of section 17-B of the CSA, 1925 and Rule 45-A of the CSR, 1927. The arguments of the counsel of the petitioner are based on merits, substance and force of law, hence entertained. The Managing Committee of the respondent society is hereby directed to transfer the plot in question or an alternate plot of same size and value in the names of the legal heirs of Aziz Ahmed (deceased) as per declaratory decree dated 08.12.2016 passed by the learned Civil Judge 1st Class Lahore, subject to payment of the lawful and legal dues of the respondent society.

5. The instant petition is disposed of with these directions.

ANNOUNCED
28.06.2018

Deputy Registrar
Cooperative Societies
Lahore

development charges. The counsel of the petitioner further argued that the respondent society had neither issued any cancellation letter nor any letter was received by Mr. Aziz Ahmed (deceased) or his legal heirs. The respondent society did not fulfill the legal requirements under the CSA, 1925 and CSR, 1927 prior to the cancellation of the membership and plot in question. The counsel contended that the petitioner is still member of the society and no proceedings have been done under section 17-B of the CSA, 1925 for cancellation of the membership of the petitioner. The counsel of the petitioner prayed that the plot in question may be restored in favour of the legal heirs of Mr. Aziz Ahmed and handover its physical possession to the legal heirs of Mr. Aziz Ahmed (deceased). He contended that the legal heirs of Mr. Aziz Ahmed (deceased) is ready to pay the outstanding dues of the plot in the account of the respondent society, if any.

3. In rebuttal, the counsel of the respondent society contended that Mr. Aziz Ahmed son of Muhammad Hayat having CNIC No. 593-18-032106 had retired as technician clerk from excise department. He applied for 01-Kanal plot in the respondent society on 03.11.1984 and obtained membership No. 55. Thereafter, the respondent society allotted plot No. 119 measuring 01-Kanal 02-Marlas 99 Sqft to Mr. Aziz Ahmed (deceased) through balloting held on 14.01.1987 with the condition that the plot can only be transferred after full payment of all dues made to the society. After allotment of plot in question to Mr. Aziz Ahmed (deceased) was directed to deposit development charges in respect of electricity and sewerage etc. But no response from him or his legal heirs was received inspite of repeated notices to him and the said notices returned back undelivered. Thereafter, the respondent society published proclamation in daily Nawa-i-waqt on 13.10.2006 and 23.08.2007, regarding intimation for the purchaser that the purchaser did not pay the remaining amount of development charges of the plot in question despite service of many notices. Neither the allottee nor his legal heirs contacted the society, thereafter the respondent society again issued notice on 23.08.2007 regarding payment of outstanding dues of the plot in question but no response was received. He further argued that the respondent society had decided to cancel the plot in question and to refund the deposited amount of Rs. 86,993/- to the legal heirs of Mr. Aziz Ahmed (deceased) but the said amount returned back undelivered. The counsel of the society contended that the cancellation done after the approval of the Managing Committee meeting minutes dated 15.07.2007 and 09.09.2007 and the same was informed to the purchaser i.e. Aziz Ahmed through notice dated 25.03.2010. Thereafter, the Managing Committee of the society had decided for auction of the plots to complete the development works of the society, which was approved by the competent authority i.e. Secretary Cooperatives and the DOC/DR, Lahore. He further contended that the plot in question is still vacant under the custody of the society and the Managing Committee of