JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.4523 of 2021
Ministry of Interior Employees Co-operative Housing Society
Versus
Additional Commissioner / Director Administration ICT and others

Date of Hearing:	06.10.2022
Petitioner by:	Mr. Manzoor Ahmed Jajja, Advocate.
Respondents by:	Mr. Dawood Iqbal, learned State Counsel. Respondent No.4 in person. Hafiz Arfat Ahmad Ch., learned *Amicus Curiae*.

MIANGUL HASSAN AURANGZEB, J:- Through the instant writ petition, the petitioner, Ministry of Interior Employees Co-operative Housing Society (**"MIECHS"**), impugns (i) the order dated 29.06.2017 passed by the Assistant Director (Labour) / Registrar's nominee, whereby application dated 29.03.2017 filed by Muhammad Anwar Khan Lashari (**"Mr. Lashari"**), predecessor of respondents No.4 to 9, against the cancellation of the allotment of Plot No.557, G-16/3, Islamabad by MIECHS, was allowed and it was directed that possession of the said plot be handed over to him; (ii) the order dated 04.02.2020, whereby the appeal filed by MIECHS against the said order dated 29.06.2017, was dismissed as time barred by the Deputy Registrar Co-operative Societies; and (iii) the order dated 08.12.2021, whereby the appeal filed by MIECHS against the said orders dated 29.06.2017 and 04.02.2020 was dismissed by the Director (Administration) / Additional Commissioner, Islamabad Capital Territory (**"ICT"**). The petitioner also assails the execution certificate dated 18.10.2017 issued by the Circle Registrar Co-operative Societies Department, ICT with respect to the said order dated 29.06.2017 passed by Assistant Director (Labour) / Registrar's nominee in favour of Mr. Lashari.

2. Learned counsel for the petitioner / MIECHS submitted that vide letter dated 24.12.1997, MIECHS provisionally allotted a plot

UNCERTIFIED COPY

measuring 600 square yards in Sector G-16, Islamabad to Mr. Lashari subject to the payment of total cost of land; that on 19.05.2002, a resolution was passed by the general body of MIECHS, whereby the earlier allotments to the members were cancelled and new allotments were to be made after the Capital Development Authority (**"CDA"**) approved the layout plan; that subsequently, on 12.04.2009, MIECHS sent a notice to Mr. Lashari whereby he was required to deposit an amount of Rs.1,28,685/- as additional land cost and the previous outstanding dues of land cost; that on 12.04.2009, another meeting of MIECHS's general body took place in which it was decided to cancel the allotments of those members who have not complied with the demand for the payment of the cost of land; that on 16.05.2009, 02.07.2009, 21.07.2009 and 24.10.2009, notices were published in the newspapers requiring the members to deposit the cost of land failing which they would not be able to participate in the balloting; that on 29.03.2017, Mr. Lashari submitted an application to the Registrar Co-operative Housing Societies, Islamabad praying for the possession of his plot to be given to him; that the said application was allowed vide order dated 29.06.2017 and it was directed that possession of Plot No.557, G-16/3, Islamabad be handed over to Mr. Lashari; that MIECHS's appeal against the said order was dismissed as time barred and so was the second appeal; that the Director (Administration) / Additional Commissioner, ICT should have converted the appeal filed by MIECHS into a revision petition and decided the same on merits; and that the decision not to convert the appeal into a revision petition was irrational and unreasonable and therefore, liable to be set-aside by this Court. Learned counsel for MIECHS prayed for writ petition to be allowed in terms of the relief sought therein.

3. On the other hand, respondent No.4 appeared in person and submitted that the orders impugned by MIECHS do not suffer from any legal infirmity; that although on 24.12.1997, a plot measuring 600 square yards in Sector G-16 was provisionally allotted to Mr. Lashari, but on 19.07.1999, Plot No.557 in Sector G-16/3 was

UNCERTIFIED COPY

earmarked in Mr. Lashari's name; that both the said letters of MIECHS mentioned Mr. Lashari's membership No.1308; that Mr. Lashari had paid all dues with respect to the said plot, including the cost of land; that Mr. Lashari had received no intimation as to MIECHS's requirement for making additional cost of land of Rs.1,28,685/-; that MIECH's appeal against the original order dated 29.06.2017 was time barred; and that the Director (Administration) / Additional Commissioner, ICT saw no reason in the case to act on his own motion by converting the second appeal filed by MIECHS into a revision petition. Respondent No.4 prayed for the writ petition to be dismissed.

4. I have heard the contentions of the learned counsel for the petitioner as well as respondent No.4 and have perused the record with their able assistance.

5. The record shows that on 24.12.1997, Mr. Lashari was provisionally allotted a plot measuring 600 square yards in Sector G-16, Islamabad. The provisional allotment letter dated 24.12.1997 provides that Mr. Lashari had not paid any amount towards the cost of land, and that after the payment of the cost of land, Mr. Lashari would be required to pay the development charges. Subsequently, vide letter dated 19.07.1999, plot No.557 in Sector G-16/3 measuring 600 square yards was earmarked for Mr. Lashari. The said letter shows that computerized balloting had been held on 04.07.1999 in the presence of the members of MIECHS.

6. The petitioner's case was that since Mr. Lashari did not deposit the cost of land, his allotment was cancelled after publishing notices in the newspapers. Mr. Lashari, in his complaint dated 29.03.2017 to the Registrar Cooperative Housing Societies, asserted that the petitioner had never been required to deposit any additional amount as cost of land. Mr. Lashari's complaint was accepted vide order dated 29.06.2017 and the petitioner was directed to handover possession of plot No.557, G-16/3 subject to clearance of all dues. The petitioner's appeal against the said order was dismissed as time barred. Instead of filing a revision petition under Section 64A of the Cooperative Societies Act, 1925,

UNCERTIFIED COPY

the petitioner filed another appeal against the said concurrent orders before the Chief Commissioner, I.C.T. The case was entrusted to the Additional Commissioner exercising the powers of Secretary Cooperative, who turned down the petitioner's request to convert the appeal into a revision petition.

7. The petitioner's case is that the revisional authority should have accepted the request made by the learned counsel for the petitioner to convert the appeal into a revision petition under Section 64A of the Cooperative Societies Act, 1925. The second appeal that the petitioner had filed before the Additional Commissioner exercising the powers of Secretary Cooperative was against the appellate order dated 04.02.2020, whereby the petitioner's first appeal against the original order dated 29.06.2017 passed by the Registrar's nominee / Assistant Director (Labour), ICT, was dismissed as time barred. The said first appeal was filed on 16.05.2019 as mentioned in the appellate order dated 04.02.2020. Section 56 of the Cooperative Societies Act, 1925 provides a limitation period of one month for the filing of an appeal by a party aggrieved by the decision of the Registrar's nominee made under Section 54 or Section 54A(3) or an order passed under Section 55. The appeal filed by the petitioner against the original order dated 29.06.2017 was barred by more than one year and nine months. No explanation was advanced by the learned counsel for the petitioner for this inordinate delay in filing the appeal.

8. Mistakenly, the petitioner filed yet another appeal before the Additional Commissioner / Director Administration, ICT exercising the powers of Secretary Cooperative against the said appellate order dated 04.02.2020. When an objection was taken to the maintainability of the second appeal, the petitioner requested the Additional Commissioner to convert the appeal into a revision petition. This request was not acceded to and the second appeal was dismissed as not maintainable.

9. The original order dated 29.06.2017 would be deemed to be in the knowledge of the petitioner since the petitioner had defended the proceedings before the Registrar's nominee initiated

UNCERTIFIED COPY

on the complaint of Mr. Lashari. An execution certificate was also issued as far back as 18.10.2017. It is not the petitioner's case that the said order dated 29.06.2017 or the execution certificate were not in its knowledge. Yet the appeal was filed with an inordinate delay. It is also an admitted position that the said appeal was not accompanied by an application for condonation of delay. Therefore, it cannot be said that the appellate order dated 04.02.2020 was illegal or irregular. In this view of the matter, the Additional Commissioner exercising the powers of Secretary Cooperatives did not commit any jurisdictional irregularity by refusing to convert the appeal into a revision petition, which could not be claimed as a matter of right.

10. In view of the above, the instant petition is dismissed with no order as to costs. The petitioner is bound to comply with the order dated 29.06.2017 passed by the Registrar's nominee, and the legal heirs of Mr. Lashari would be bound to pay the dues, as development charges and additional cost of land, if any, which the similarly placed allottees of plots in 1999 had to pay.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON 12/10/2022

(JUDGE)

Ahtesham*

UNCERTIFIED COPY