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SHRI BHAGWAN SINGH
v.
THE CHAIRMAN, NOIDA AND ORS.

JANUARY 19, 1995

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[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

U.P. Co-operative Society Act & Rules—Cut-off date—Co-operative Society bungling in matter of enrolment of member—Whether a member, enrolled after the cut-off date is entitled to allotment of plot.

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The petitioner was eligible to be registered as a member of the co-operative society and had deposited the price as directed by the society from time to time. Respondents refused to allot the plot as only members enrolled prior to the cut-off date were entitled for allotment. The petitioner invoked arbitration proceedings before the Registrar who by a clear finding recorded that the petitioner had complied with all the rules and that the society had bungled in not forwarding his name. Consequently, a direction was given to forward the name of the petitioner for enrolment as a member. The award became final and the society was bound by it, but it was received and registration effected seven days after the cut-off date put by the Supreme Court in *NOIDA v. U.P. Residents Emp. Co-op. Hsg. Bldg. Society*, [1990] Supp. SCC 175.

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Allowing the Writ Petition, this Court

HELD : 1. The petitioner cannot be penalised for misfeasance of the society in registering the members. [487-E]

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2. The order is limited to the facts and cannot be used as a precedent to overcome the cut off date fixed by this court. [487-F]

CIVIL APPELLATE JURISDICTION : Writ Petition (C) No. 674 of 1992.

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(Under Article 32 of the Constitution of India.)

Sunil K. Jain and Vijay Hansaria for the Petitioner.

Dr. B.S. Chauhan and Raju Ramachandran, (N.P.) for the Respondents.

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The following Order of the Court was delivered :

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Admittedly, the petitioner was found to be one of the eligible persons entitled to be registered as a member of the Co-op. Societies for allotment of the plots in NOIDA. He also deposited the price within time on diverse dates as directed by the Society itself. The NOIDA refused allotment of the plot to the petitioner on the sole ground that 1.5.76 was the cut off date and whosoever was a member of the society prior to it would be entitled for the allotment. As the petitioner was enrolled as a member on 8.5.76, he is not eligible for allotment of the plot. It is seen from the record that the Society had bungled in the matter of enrolment of members. In consequence the petitioner was constrained to invoke arbitration proceedings before the competent authority. The Registrar in his award dated 9.11.83 recorded a clear finding that the petitioner had complied with what all the rules requires him to do and the Society had committed bungling in not forwarding the name of the petitioner within the time. Consequently, a direction was given to forward the name of the petitioner for the enrolment as a member. The award became final and the Society was bound by it. Since it came to be received after the due date, the registration has been made after 7 days from the cut off date put by this Court in *NOIDA v. U.P. Residents Emp. Coop. Hsg. Bldg. Society*, [1990] Supp. SCC 175. The petitioner was in no way responsible for delay in admission beyond the cut off date. In view of the fact that the petitioner himself has been agitating for his right to membership and for allotment of plot and having already deposited the amount, we think that he cannot be penalised for misfeasance of the Society. Under the circumstances, the writ petition has to be allowed. It is accordingly allowed under the said special circumstances but not on any other ground and it cannot be used as a precedent to overcome the cut off date fixed by this Court.

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It is brought to our notice that the respondents have refunded the entire amount deposited by the petitioner and he had kept the amount in a separate account earning interest thereon. The petitioner is directed to withdraw the amount from the account with notice to the respondent and it is open to the respondent to verify this fact. After withdrawal of the amount, the petitioner should immediately deposit the entire amount refunded by the respondent together with interest earned thereon, with the respondent. No costs.

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