

(Issued by the orders of State Registrar of Societies, Haryana)

From

Registered

The State Registrar of Societies, Haryana,
Department of Industries & Commerce,
30 Bays building, Sector-17, Chandigarh.

To

1. Sh. Adarsh Jain & Ms. Tulika Jain, Advocates, Bangalow 691, Sector-8-B, Chandigarh. For Appellant
2. Ansal Properties & Infrastructure Limited, 115, Ansal Bhawan, 16 Kasturba Gandhi Marg, New Delhi through Sh. Rachit Kaushal. Appellant
3. District Registrar, Firms & Societies, Gurgaon.
- ✓ 4. Ansal Retreat Resident Welfare Association, G-3A, Ansal Aravali, Raisina, Gurgaon.
5. Raisina Aravali Retreat Resident Welfare Association, Cl-8, Aravali Retreat, Village Raisina, District Gurgaon. Respondents

Memo No. SROFS/Appeal Case of Ansal Retreat RWA/GGN/ 340
Dated Chandigarh the 20-03-17

Subject:-

Appeal/Petition No.332 of 2016 case of Ansal Retreat Residents Welfare Association, Gurgaon filed by Sh. Rachit Kaushal of the HRRS Act, 2012 against the order of the District Registrar, Firms & Societies, Gurgaon passed on 12.08.2016.

I have been directed to enclose herewith a copy of orders dated 16.03.2017 passed by the State Registrar of Societies, Haryana for information and compliance.

Encl: as above


Assistant Registrar (F&S)

For State Registrar of Societies, Haryana

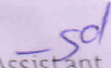
Through E-mail/Regd.

Endst.No. SROFS / Appeal Case of Ansal Retreat RWA/GGN/

Dt.

A copy is forwarded to the District Registrar, Firms & Societies, Gurgaon for information and immediate compliance by delivering this communication to the concerned immediately.

Encl: as above


Assistant Registrar (F&S)

For State Registrar of Societies, Haryana

BEFORE STATE REGISTRAR OF SOCIETIES, HARYANA, CHANDIGARH
Appeal before the State Registrar of Societies, Haryana under the Haryana Registration and Regulation of Societies Act, 2012.

Appeal No.332 of 2016

Ansal Properties & Infrastructure Limited, 115, Ansal Bhawan, 16 Kasturba Gandhi Marg, New Delhi through its authorized signatory Sh.Rachit Kaushal.

.... Appellant

Versus

District Registrar of Firms & Societies, Gurgaon & Anr.

.... Respondents

Present:

Appellant:

1. Sh. Adarsh Jain, Advocate for appellant.

Respondent:

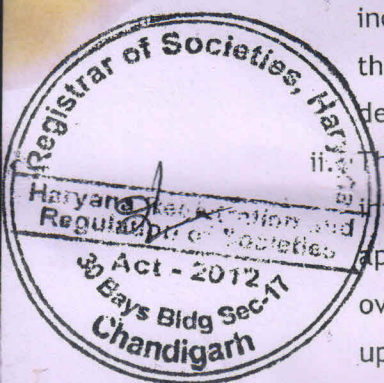
1. Sh.Manjeet Singh, D.E.O O/o District Registrar, Firms & Societies, Gurgaon-respondent no.1.
2. Sh.Rakesh Kumar, Authorized person of respondent no.2 Society.
3. Sh. Yogesh Singh, General Secretary of respondent no.2 Society.
4. Sh. Arvinder Singh Brar, President of respondent no.2 Society.
5. Sh. Chander Nagpal, Treasurer of respondent no.2 Society.

1. This appeal has been filed under section 79 of the Haryana Registration & Regulation of Societies Act, 2012 by Ansal Properties & Infrastructure Limited, 115, Ansal Bhawan, 16 Kasturba Gandhi Marg, New Delhi through its authorized signatory Sh.Rachit Kaushal against the orders dated 12.08.2016 passed the District Registrar of Societies, Gurgaon.

2. The appellant has submitted the written submissions in his appeal:-

- i. That the appellant is engaged in development of land and developed a project as "Ansal Aravali Retreat" developed over land measuring 1200 acres, in which farm houses of one acre and two acres, fenced independently, were carved out. Development of the project has started in the year 1988-89 and the farm houses are in a gated Colony, with well developed internal development, roads etc.

- ii. That marketing of the project was made in 1990-91 after the entire infrastructure development of the area had been carried out by the appellant. A provision was also made for setting up an International school over plot measuring 30 acres and presently pathway Intentional School is set up and running from the campus. In the colony there are various play



grounds, swimming pool, auditorium. There is a club house, community building and various trees are planted by the appellant.

- iii. That initially maintenance of infrastructure of the colony including security, green cover, roads, trees and flower were being maintained by Star Estate management Limited. It was charging the owners to whom the farm houses had been sold, by collecting monthly/annual fee to meet the maintenance expenses. That the State of Haryana enacted the Haryana Registration and regulation of Societies Act, 2012 published in the official gazette dated 29.03.2012.
- iv. That "Ansal Retreat Resident Welfare Association" G-3A Ansal Aravali Raisena Gurgaon, hereinafter referred to as respondent no.2, was registered with the District Registrar Firms & Societies, Gurgaon, bearing registration no.32 and certificate of registration dated 07.09.2012 was issued to it.
- v. That respondent no.2 after its registration represented to the District Registrar, respondent no.1 on 05.08.2014 that it was the Residents Welfare Association of "Ansal Aravali Retreat" and that the appellant was not handing over maintenance work of the project to respondent no.2, although it was duly registered vide registration no.32 dated 07.09.2012.
- vi. That after hearing respondent no.2- RWA, the respondent no.1 District Registrar passed order dated 08.08.2014 and sent the order to the appellant alongwith copy of representation, with regard to hand over the maintenance work. That in receipt of the order dated 08.08.2014 from the District Registrar, the appellant vide agreement dated 10.04.2015 handed over maintenance of "Ansal Aravali Retreat" to RWA- Aravali Retreat Residents Welfare Association Gurgaon- respondent no.2.
- vii. That before handing over the maintenance, proper procedure was followed. The agreement was signed on behalf of appellant by its duly authorized signatory Sh. G. Arora and Naresh Sharma, duly authorized by the Board vide its resolution dated 12.08.2014. A letter dated 12.03.2015 was also addressed to Star Facilities Management Limited, who at that time was looking after the maintenance and had submitted that five members committee of the society would taken over the charge.
- viii. That before handing over charge, the appellant had taken all steps to ascertain the authenticity of the office bearers namely Rajesh Vats, Guneet Dhillon, Yogesh Singh. The appellant had also got its satisfied that Ansal

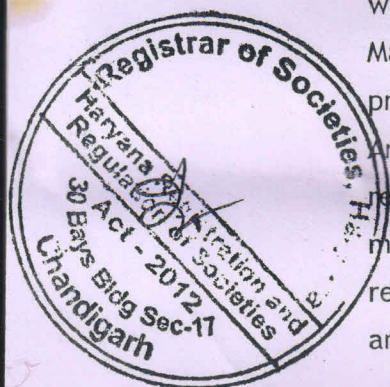


Retreat Resident Welfare Association was also registered with Income Tax Department and had been allotted PAN Card. A certificate was also taken from respondent no.2 regarding the list of office bearer.

- ix. That it appears that there were some differences between the members of the RWA of Ansal Aravali Retreat and Shri Kuldeep Kumar Kohli, who claimed to be member and office bearer of another Resident Welfare Association under the name of "Raisina Aravali Retreat Residents Welfare Association"- respondent no.3. It has been constituted subsequently and is registered with the District Registrar Firms & Societies, Gurgaon vide no.451 dated 12.04.2013 and it has framed his Memorandum of Association.
- x. That Shri Kuldeep Kumar Kohli is said to have submitted representation on 08.04.2016 and 06.05.2016 to the District Registrar alleging that management of Ansal Retreat Welfare Association respondent no.2 has committed financial irregularities and their memorandum of Association and bye-laws are not as per provisions of the Act of 2012. Notice is said to have been issued to respondent no.2 and after hearing both sides it was found that bye-laws of the association were not in conformity with the Act and administrative and financial records were not being maintained. Direction was issued by the District Registrar, Gurgaon vide letter dated 01.08.2016 to respondent no.2 to attend its memorandum of Association and bye-laws and bring them strictly in conformity with the provisions of the Act of 2012.
- xi. A Direction was also issued to get the same approved in the General Body of the meeting of the Association. A further direction was also issued to manage the day to day administrative and financial activities strictly as per norms and also enrol new members in accordance with the provisions of the Act, 2012. The complaint of Shri Kuldeep Kumar Kohli was disposed off finally.
- xii. That while understanding and having knowledge that the Resident Welfare Association being management of respondent no.2 was already registered with it and was managing the Ansal Aravali Retreat village Raisina under agreement dated 12.04.2015, to whom appellant had handed over maintenance activities, still, respondent no.1 passed an illegal order dated 12.08.2016 that it had received representations from management of respondent no.3 that the appellant was not handing over maintenance work to RWA respondent no.3 and a direction has been issued to the appellant to hand over the maintenance work to it.



- xiii. That the illegal order dated 12.08.2016 has been passed without application of mind and is unsustainable in the eyes of law and is liable to be set aside and quashed. That the District Registrar, Gurgaon vide previous order dated 08.08.2014 had asked the appellant to handover maintenance work of Ansal Aravali Retreat to respondent no.2 which was registered under the Haryana Act of 2012 with the District Registrar, Gurgaon. The said direction has been complied and maintenance activities handed over vide agreement dated 10.04.2015.
- xiv. That the District Registrar has failed to consider that having once handed over maintenance work of Aravali Retreat to respondent no.2 it was not left with any maintenance activities which can again be handed over to respondent no.3. The order dated 12.08.2016 failed to consider the above situation. That the District Registrar, Gurgaon is the authority who has passed order dated 01.08.2016 after considering the record produced by the management of respondent no.2 Ansal Retreat Welfare Association and he was aware that the said RWA was looking after the Ansal Aravali Retreat. Having considered so, the impugned order dated 12.06.2016 is illegal.
- xv. That the District Registrar, Gurgaon who has passed the impugned order bearing memo no.1533 dated 12.08.2016, also passed memo no.1532 dated 12.08.2016 directing respondent no.2 to take steps to enrol new members, amend memorandum of association and bye-laws and to hold special general body meeting on 15.08.2016. After having so directed, if could not have directed the appellant to handover maintenance work to Ansal Retreat Welfare Association-respondent no.3.
- xvi. That respondent no.1 has failed to consider that both the RWAs i.e. respondent no.2 & 3 are in respect of the same colony Ansal Aravali Retreat and that the appellant does not have any maintenance activities surviving with it or its associations or agent or subsidiary or with Star Facilities and Management Limited or Pro-Facilities Services Pvt. Ltd., who were previously carrying maintenance of common areas and facilities of Ansal Aravali Retreat, before handing over the maintenance activities to respondent no.2 on 10.04.2005 under the agreement for handing over maintenance. That looked from any angle the impugned order passed by respondent no.1 District Registrar, Gurgaon is illegal, unsustainable in law and liable to be set aside and quashed.



xvii. It is prayed that the present appeal is allowed with cost, the impugned order dated 12.08.2016 passed by the District Registrar, Gurgaon directing the appellant to handover the maintenance work to of the colony "Ansal Aravali Retreat" to Raisina Aravli Retreat Resident Welfare Association, respondent no.3, is set aside and quashed.

3. The District Registrar of Societies, Gurgaon has passed the impugned orders dated 12.08.2016:-

"This office has received a representation/complaint from the Management of Raisina Aravli Retreat Resident Welfare Association CL 8 Aravli Retreat Vill. Raisina Gurgaon on 04.07.2016 vide which they have claimed that M/s Ansal API Limited, Ansal Bhawan, Kasturba Gandhi Marg, New Delhi is not handing over the maintenance work to the Raisina Aravli Retreat Resident Welfare Association CL 8 Aravli Retreat Vill. Raisina, Gurgaon which is registered under the Haryana Registration and Regulation of Societies Act, 2012 vide no.451 dated 12.04.2013 inspite of the fact that the association has 144 members. Copy of representation is enclosed herewith, with the direction to hand over the maintenance work to the concerned association".

4. That the respondent no.2 has submitted the written submission in his reply:-

i. That after developing Aravali Retreat by Ansal Properties & Infrastructure Ltd. the farm land was maintained by the licensee's own arrangement through their agent/subsidy company, and for better maintenance and services for the property owners of Aravali Retreat few property owners registered Ansal Retreat Resident Welfare Association as founder members and requested M/s Ansal Properties & Infrastructure the appellant to hand over the maintenance of 'Aravali Retreat, village Raisina, Gurgaon Haryana to Ansal Retreat Resident Welfare Association, the respondent no.2.

ii. That for handing over of the Aravali Retreat by Ansal Properties & Infrastructure Ltd., the appellant, the respondent no.2 also approached respondent no.1, and in this respect a direction vide memo no.DIC/GGN/DRI/307 dated 08.08.2014 was issued by the respondent no.1 to the appellant.

That considering the request of respondent no.2 and direction of respondent no.1, an agreement was constituted by the appellant on 10th April, 2015, in a legal manner and maintenance 'Ansal Aravali Retreat, village Raisina, Distt. Gurgaon, Haryana was officially thus transferred to respondent no.2 by the appellant and taking over of the administration, management and control of maintenance and or transfer ownership and responsibilities of common area and



facilities provided/available under the Project had been done by the respondent no.2.

- iv. That ever since 10th April, 2015 transferring and handing over the Ansal Aravali by the appellant to the respondent no.2, the respondent no.2, is doing all the best available works controlling the administration Management of maintenance and upkeep of common areas, common facilities, common infrastructure and facilities including roads, sewer, drainage, water supply, open spaces, green bet, parks, trees and plants conservation of natural resources, housekeeping, fire services, electric infrastructure and security of the project on a reasonable rates charged from the property owners.
- v. That in the meantime few property owners who were not paying the maintenance regularly to the appellant, made another association called Raisina Aravali Retreat Resident Welfare Association, with in the Aravali Retaret, Raisina village Gurgaon, hereinafter called as respondent no.3, without revelling the facts to the respondent no.1, the District Registrar that already a registered association exists within Aravali Retreat Raisina village, Gurgaon, with the same project.
- vi. That the respondent no.1, given registration to the association within the same Aravali Retreat, Raisina, Gurgaon, formed with the same object of respondent no.2, to latter applied association respondent no.3, without verifying the fact that already an association in the name of Ansal Retreat Resident Welfare Association the respondent no.2 has been already been registered within the Aravali Retreat Farm land, among the property owners.
- vii. That the respondent no.2, has been maintaining the Aravali Retreat Farm land ever since the agreement dated 10th April, 2015 with the guidance of the appellant informing all the department like Deputy Commissioner, Police Commissioner, the District Registrar, and the members, with all the possible best means, possible way and monthly maintenance charges were collected from the property owners.
- viii. That the respondent no.3, and its founder members doing nothing for more than 3 years ever since their registration who were not even members of respondent no.2 association, started making false and frivolous complaints against respondent no.2 to the District Registrar the respondent no.1, alleging of irregularities in the functioning of respondent no.2, and made so many propaganda against respondent no.2, to tarnish the image among the property owners and they were informed them not to pay the maintenance charges to respondent no.2.



- ix. That without doing any social as well as welfare work, the respondent no.3, when realized that the respondent no.2 is well organized and maintaining the entire farm land Aravali Retreat, with better security and up keeping and demanded maintenances charges from the property owners of Farm Land the respondent no.3 founder members started creating trouble so that they do not want to pay maintenance charges to respondent no.2 and the earlier dues of the license company. Further, they want to grab the power by hook or crook and started all kinds of allegations against respondent no.2.
- x. That the respondent no.3 intentionally have not given the crucial order dated 18.08.2016 of the respondent no.1 to the appellant against respondent no.1 earlier order dated 12.08.2016, stating that the direction is to resolve the issue of maintenance charges but not to hand over the maintenance charge work to respondent no.3. It is because not receiving the second order dated 18.08.2016 from the respondent no.1 this appeal filed by the appellant against the impugned order dated 12.08.2016.
- xi. It is prayed that the appeal of the appellant is allowed and the impugned order dated 12.08.2016 passed by the District Registrar, Gurgaon directing the appellant to hand over the maintenance work of the colony Ansal Aravali Retreat to respondent no.3, is set aside and quashed, though the District Registrar had already issued another order dated 18.08.2016 clarifying that the earlier order dated 12.08.2016 is not to hand over the maintenance work to respondent no.3, but to settle the maintenance issue with them. Further prayed that during the pendency of the appeal, operation of impugned order dated 12.08.2016 may be stayed.
5. During the course of hearing, the respondent submitted a copy of letter issued by District Registrar, Gurgaon vide memo no.1547 dated 18.08.2016 withdrawing his earlier order dated 12.08.2016 against which the appeal was filed. Since the Ansal API Limited had already handed over the maintenance work to Ansal Retreat Resident Welfare Association on the order dated 08.08.2014 passed by the District Registrar, therefore, he has passed the impugned order without any logic. As the District Registrar has withdrawn impugned order, the appeal has become infructuous, therefore, the same is disposed off accordingly.
- Orders be communicated to all concerned.



Date: 16.03.2017

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(Wazir Singh)

State Registrar of Societies, Haryana

Attested


Assistant Director,
Deptt. of Industries & Commerce,
Haryana