

2025.PHHC:047076-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-9689-2025 (O&M)

Date of decision: 05.04.2025

PUSHPINDER KUMAR JAIN & ORS

.....Petitioners

Versus

STATE OF PUNJAB & ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present:- Mr. Anshul Jain, Advocate for petitioners.

SUDHIR SINGH, J.

The petitioners have sought issuance of a writ in the nature of Certiorari quashing the order dated 17.03.2025 passed by respondent No.2-Special Secretary, Housing & Urban Development, Punjab, Chandigarh, whereby the revision petition filed by them was dismissed and the orders dated 30.07.2024 and 15.04.2024 passed by respondents No.3 and 4, were upheld.

2. It is the case of the petitioners that they are the residents of ATS Golf Meadows Prelude, Derabassi, S.A.S. Nagar Mohali, Punjab (for short hereinafter referred to as 'the Society'),. In the year 2015, some of the residents got registered a Society under the Societies Registration Act, 1860, in the name of ATS Prelude Apartment Owners' Association (APAOA). It is further averred that

over the next few years, 120 odd persons, filled membership forms to become Members of the said Society. It is further the case of the petitioners that the ATS Golf Meadows Prelude, Derabassi, is governed by the provisions of The Punjab Apartment Ownership Act, 1995 and in terms of Section 17 of the said Act, the formation of Apartment Owners' Association is a mandatory condition. On 19.3.2019, the aforesaid Registered Society through its Secretary applied for registration as Residents Welfare Association under the aforesaid Act before respondent No.4 and respondent No.4 issued registration certificate to the said Society. It is the case of the petitioners that aforesaid Society registered under the Societies Registration Act, can either alter or expand its scope and objectives, or can amalgamate into other similar society as per Section 12 or it can seeks dissolution under Section 13 of Societies Registration Act, but it cannot apply for registration under a different Act without dissolving itself. The grant of aforesaid registration certificate was challenged before the respondent-authorities, which remained unsuccessful till the passing of the order dated 17.03.2025 (Annexure P-28) by respondent No.2.

3. Served with the advance copy of the notice, Mr. Neeraj Madaan, DAG, Punjab, appears on behalf of respondents No.1 to 4 and submits that the provisions of the Societies Registration Act and that of Punjab Apartment Ownership Act, operate in different fields and, therefore, by registration of the Society under the latter Act, does not amount to any illegality as claimed by the petitioners.

4. Mr. P.S. Kanwal, Advocate appearing for Caveator toes the line of argument(s) of the learned State counsel.

5. We have heard the learned counsel for the parties and have also gone through the paper book.

6. A perusal of the file would show that on 05.11.2015, a registration certificate was issued by the Additional Registrar of Societies, SAS Nagar, Mohali, in the name of ATS Prelude Apartment Owners' Association. On 03.04.2019, the ATS Prelude Apartment Owners' Association, was registered under Rule 8 of the Punjab Apartments Ownership Rules, 1995.

7. A perusal of Rule 8 of the aforesaid Rules, would show that all the members of an Association shall constitute a General Body of the Association. Still further, Section 17 of the Act, stipulates for formation of the Association. Sub Section (1) of the said Section provides that after obtaining occupation certificate and within three months of majority of the apartments being allotted, sold or otherwise transferred, the promoter shall make an application to the competent authority for the registration of the association with the persons, who have taken apartments as members. It is further stipulated that if the promoter fails to make such application, the allottees shall make such application. Sub-Section (2) of the said Section further provides that if the promoter or the allottees, as the case may be, fail(s) to make an application for registration of the Association within the aforesaid period, the Competent Authority shall by an order direct the promoter or the allottees, as the case may be, to form an association of the residents.

8. It is the case of the petitioners themselves that the members of the aforesaid society are the occupants of the flats/dwelling units in the ATS Golf Meadows Prelude, Derabassi, S.A.S. Nagar Mohali. Respondent No.2, has observed in the impugned order dated 17.03.2025 that the formation of the Society and its registration by respondent No.4 on 03.04.2019 as ATS Prelude Apartment Owners' Association was in terms of the aforesaid provisions of the Act and the mandate contained therein. The said mandate clearly provides the maintenance of the building or Society of the RWA (Residents Welfare Association) Society of the members or the residents.

9. We may also find that the Societies Registration Act and The Punjab Apartment Ownership Act, 1995 Act operate in different fields. The purpose of 1995 Act is to regulate the maintenance and upkeep of the building or apartments under the said Act by allowing formation of the Residents Welfare Association, whereas the purpose of any Society registered under the Societies Registration Act can be for the purposes and objectives detailed in the Societies Registration Act. We find no substance in the argument of the learned counsel for the petitioners that the Society Registered in 2015 could not have got registered itself under the same name in 2019. As noticed above, the registration of the Association in 2019 is in terms of Section 17 of the 1995 Act. Still further, the petitioners are seven in numbers in total, whereas as per the contents of the writ petition itself, there are 364 flats/apartments and 36 flats of EWS Category in the Society, meaning thereby, that the majority of the occupants of the

flats/dwelling units are either the members of the Residents Welfare Association or they have no grievances whatsoever, in respect of the registration of ATS Prelude Apartment Owners' Association.

10. In view of the above, we do not find that any case for interference is made out in the writ jurisdiction of this Court. Consequently, finding no merit in the present writ petition, the same is hereby dismissed.

11. Pending application(s), if any, shall also stand disposed of.

**[SUDHIR SINGH]
JUDGE**

**[SUKHVINDER KAUR]
JUDGE**

05.04.2025

himanshu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No