

OFFICE OF THE REGISTRAR, COOPERATIVE SOCIETIES,
GNCT OF DELHI, OLD COURTS BUILDING, PARLIAMENT STREET
NEW DELHI-110001

F.No.10/Reader/JRCS/Sec.86/2018/128-129

Dated: 19/12/19

The President Secretary,
ECIL CGHS Ltd., Plot No. 17,
Sec-4, Dwarka, New Delhi-110075.

....Applicant

Versus

Sh.J.S.Chauhan ,
(Allottee of flat no. B-63 in respondent ECIL CGHS Ltd.)
R/o A-402, Sector 10, Plot No. 33,
Dwarka, New Delhi-110075

....Respondent

Order under 86 of DCS Act, 2003

This order shall dispose of the proposal of ECIL CGHS Ltd. to expel Shri J.S.Chauhan, Member, ECIL CGHS Ltd., in terms of Hon'ble High Court of Delhi order dated 29/10/2018 in WP (C) 9673/2017, C.M. Application no. 39388/2017 & 22496/2018 in the matter of ECIL CGHS Ltd. Versus Lt. Governor of Delhi and ANR., followed by order dated 13/11/2019 in C.M., application No. 48858/2019.

Basically, ECIL CGHS Ltd. through its letter dated 10/2/2014 enclosing copy of resolution passed by MC to expel its defaulter member namely Sh. J. S. Chauhan, copy of MC minutes, demand notices with proof of service through post, requested Office of Registrar Cooperative Societies that proposal to expel Sh. J. S. Chauhan may be approved. Office of Registrar Cooperative Societies informed the Society about the deficiencies and directed it to remove the same.

The ECIL CGHS Ltd. again vide letter dated 14/06/2014 intimated that there was no deficiency and once again enclosed documentary proofs. Office of Registrar Cooperative Societies, thereafter, did not make any communication in this regard. On 19/8/2014, after elapse of 180 days on 10.08.2014 since filing of expulsion proceedings, the Society took it as a deemed approval and informed Sh. J. S. Chauhan and the Registrar Cooperative Societies accordingly.

Sh. J. S. Chauhan appealed against his expulsion from the Society before the Hon'ble Delhi Cooperative Tribunal. Hon'ble DCT vide order dated 07/05/2015 allowed the appeal, held the expulsion invalid and quashed letter dated 19/8/2014. However, Hon'ble DCT sent back the proposal of the Society for approval of expulsion to Office of Registrar Cooperative Societies

(Handwritten signature)

(Handwritten mark)

for reconsideration on merits. The proposal was heard by Special Registrar and decided after hearing both the parties. During hearings, the Society submitted that Sh. J. S. Chauhan is not paying the maintenance and other legitimate dues. While on the other hand, Sh. J. S. Chauhan contended that he is not in any default but the Society has to refund the over payment made by him on various heads like land cost, construction cost and iron grills and the Society is not allowing him to inspect the records. Sh. J.S. Chauhan also alleged that the Society is not adjusting the amount overpaid against the dues. The Special Registrar in its order dated 01/04/2016 after hearing both the parties, examining the documents, opined that once an allotment is made by the concerned authority, no useful purpose would be served by expelling any member as the flat would continue to remain in the name of member and further held that expulsion proceedings are not maintainable and rejected the proposal of Society.

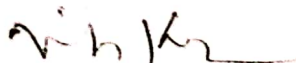
The Society appealed before Hon'ble DCT against the order of Special Registrar which was rejected by the Hon'ble DCT vide order dated 24/04/2017. As per the order, the order of the Special Registrar was well reasoned and there was no illegality, infirmity or impropriety. The Society challenged the judgment of Hon'ble DCT before the Hon'ble High Court of Delhi.

Recently, Hon'ble High Court of Delhi in its order dated 29/10/2018 in WP (C) 9673/2017, C.M.Application no. 39388/2017 & 22496/2018 in the matter of ECIL CGHS Ltd. Versus Lt. Governor of Delhi and ANR., set aside the order of Hon'ble DCT and directed the parties i.e. ECIL CGHS Ltd. and Shri J.S. Chauhan to be present before Special Registrar on 6th November 2018 at 2:00 pm and directed that the said official shall give a date after three months for the parties presence to examine whether all amounts are deposited by Sh. J.S.Chauhan; in the event of failure, he shall proceed and decide ECIL's application seeking leave to expel Sh J.S.Chauhan, and decide it in accordance with law, within 3 months thereafter.

Accordingly, on 6th November 2018, Sh. J.S. Chauhan, appeared before the Special Registrar. None was present from the Society. A notice was issued to the Society and the hearing in the matter was fixed for 19/11/2018.

During the intermittent period, the petitioner Society presented a C.M. application No. 48858/2019 before the Hon'ble High Court of Delhi for modification of order dated 29/10/2018 to seek clarification as to what amount is payable by respondent no. 2/ Sh. J. S. Chauhan. Hon'ble High Court vide its order dated 13/11/2019 clarified that the respondent no.2 shall pay a sum of Rs.80,205/- with 10% interest to the society. A cheque of Rs. 80,205/- bearing no. 000045 dated 23/10/2019 drawn on Andhra Bank , Dwarka , Sector 10, New Delhi , was handed over to the Counsel of Society before Hon'ble High Court of Delhi. This amount Rs. 80,205/- along with 10% interest was the amount payable as per the Arbitrator's Award dated 02/8/2009 in the Arbitration case filed by the Society against Sh. J. S. Chauhan.

During the course of time, after 6-11-2018, the case was heard on 19/11/2018, 21/02/2019, 19/03/2019, 03/06/2019, 08/08/2019, 03/09/2019, 17/09/2019, 22/10/2019, 23/10/2019, 05/11/2019, 13/11/2019, 26/11/2019, 04/12/2019 and 05/12/2019 in compliance of orders of Hon'ble High Court of Delhi.



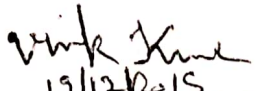
On 13.11.2019 the Counsel of Respondent society submitted that the interest amount works out to be Rs.82,210/- from the date of Arbitrator's award till October 2019. So, as per the Orders of Hon'ble High Court of Delhi, a cheque bearing no. 000049 dated 13/11/2019 of Rs.82,210/- towards interest amount from the date of Arbitrator's award to October 2019 was handed over by Sh. J. S. Chauhan to the Counsel of ECIL CGHS Ltd. at the time of hearing on 13/11/2019.

Further, the Counsel of the ECIL CGHS Ltd. argued that the respondent is a persistent defaulter and has miserably failed to pay the entire demand (Rs.18,33,601/-) of the dues of the ECIL CGHS Ltd. for the post award period and he is setting up false and fabricated defenses to avoid expulsion. The Counsel of ECIL CGHS Ltd. stated that disputes as to the quantum of the dues and its correctness have to be raised before the Arbitrator by initiating appropriate proceedings which the member has failed. The Society further stated that it has complied with the provisions of Section 86 and the proposal of society may be approved.

While the member/Sh. J. S. Chauhan, firmly reiterated that he is not in any default but the Society has to refund the over payment made by him on various heads like land cost, construction cost and iron grills etc. and the Society is not allowing him to inspect the records. Sh. J. S. Chauhan also alleged that the Society is not adjusting the amount overpaid against the dues. The member further stated that the Society has disconnected electricity and water supply to his flat and as such he could not rent out his flat for want of essential services. He requested the society may be ordered to pay rental of flat at least @ Rs. 20,000/- per month averaged from 01/04/2003 till date which comes to more than Rs.40,000,00/- with admissible interest. He has further requested that society may be ordered to pay Rs.10,000,00/- for repairing of his flat which has been damaged by termites because of lack of supervision and deficient services of MC and also not allowing staff to attend complaints of flat respondent society for want of essential services etc. The electricity and water supply have not been restored despite directions issued by the Office of Registrar Cooperative Societies.

I hereby reject the proposal of the Society to expel Sh. J. S. Chauhan, Member, ECIL CGHS Ltd. since Sh. J. S. Chauhan has paid the rightful amount along with interest to the respondent Society, in compliance of the orders dated 29/10/2018 and dated 13/11/2019 of Hon'ble High Court of Delhi. The electricity and water supply has to be restored as the dues have been paid according to law. For other issues like more demand by Society and overpayment to Society, the parties may approach the appropriate Authority/Forum.

The case file be sent to the concerned Assistant Registrar Cooperative Societies/Section to keep the same on record.


13/12/2019
(DR. VIVEK KUMAR)
JOINT REGISTRAR