

**OFFICE OF THE ADDITIONAL REGISTRAR COOPERATIVE
SOCIETIES**
GOVERNMENT OF NCT OF DELHI
OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI - 110 001

F.DR-II/RCS/U/s-91/Appeal no.-07/2019/1914-15

Dated: 03/11/2020

IN THE MATTER OF

Smt. Anjali Jain,
Flat No. B-602, Kesarwani CGHS Ltd
Plot No. 4, Sector-05, Dwarka, New Delhi-110075

.....Appellant

Versus

The President/ Secretary
Kesarwani CGHS Ltd
Plot No. 4, Sector-05, Dwarka,
New Delhi-110075

.....Respondent

ORDER

This order shall dispose of the appeal filed under Section 91 of DCS Act, 2003 by Smt. Anjali Jain, dated 04.05.2019 against the President/Secretary of Kesarwani Cooperative Group Housing Society Ltd.

The appeal has been filed by the appellant against the Kesarwani Cooperative Group Housing Society's refusal for transferring the membership in favour of the appellant. Brief facts of the case are that the appellant filed an application for the transfer of membership in Form 20 to the society on 10.12.2018. Further she had again sent the reminder to society on after 29.03.2019 but instead of transferring of membership, the managing committee of the society vide its letter no. dated 09.04.2019 intimated her that **"regarding transfer of share certificate against Gift-Deed transaction of your flat no. B-602, the matter has been referred to RCS office for the opinion and discretion in such cases vide our letter no. KES/2019-20/02 dated 05.04.2019"**. In this furtherance she has submitted vide representation dated 04.05.2019 that Gift Deed executed by her brother, Sh. Rajeev Jain in her favour is a legal instrument which has been duly registered in the office of Sub Registrar-VIII, New Delhi Government of NCT of Delhi. Accordingly, the appellant has filed an appeal u/s 91 of the DCS Act, 2003 and has prayed that the membership may be transferred by the

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society in her favour. Notices were issued to appear before this court on 31.07.2019, 27.08.2019, 26.09.2019, 07.11.2019, 15.11.2019, 09.12.2019, 23.12.2019, 17.01.2020, 06.03.2020, 18.09.2020 and 16.10.2020. During proceedings the appellant was present and the society was represented by Sh. Himanshu, Care taker of the society alongwith Sh. Ashish Kumar Dabbas, Advocate. The respondent society filed its reply dated 16.10.2020 wherein society submitted that the MC could not transfer the share certificate to the appellant due to the following reasons as under:-

1. Unsolved dispute of Rs. 73 lacs:-The Builder R.R. Construction had filed the case against our society against bounced cheque of Rs. 25 lacs. The cheque was bounced due to insufficient money in society account. The treasure of Said time Sh. Chandresh Kumar Gupta was found guilty and irresponsible. However, the dispute of Rs. 25 lacs was mutually settled down between Ex-Treasurer and Builder. Thereafter Ex-treasurer has claimed Rs. 73 lacs from our society in lieu of Rs. 25 lacs and dispute was highlighted to all members in AGM of 23.12.2018. Due to dispute most of the original members have sold their flat and new member have refused to pay their contribution in the eventuality society loose the litigation of Rs. 73 lacs. Therefore society is unable to understand from whom the share of dispute money shall be recovered.
2. The balance sheet since the allotment of flats FY 2012-13, 2013-14 and 2014-15 of society is pending with RCS office for the approval. The present MC does not know whether, the dispute of 73 lacs is genuine or false.
3. Appellants have made the additional construction and alteration in their flats irrespective of the original design duly approved and passed by DDA and other competent authorities.
4. The form no.18 submitted by the individual appellants is not approved & signed by the vendor.

Further society submitted that Managing Committee is very much willing to transfer the share certificate to the appellants provided they submit and Indemnity Bond for liability stands against them in the future and the contribution of Rs. 73 lacs will also be contributed by the appellants in case society loose the litigation from Sh. Chandresh Kumar Gupta (Ex-Treasurer).

In this regard the appellant has submitted that if above said dispute of 73 lacs is decided against the society in future and if the AGM approves that all the assets/liability shall be shared equally by all the members, in that case appellant shall not raise any nonconformity with the decision.

In view of above and perusal of documents and submission of both parties, I am of the opinion that society has not filed any validated arguments/documents for non transferring of membership to appellant and appellant has also shown their willingness of submissions of payment in above said issue. Hence the society is directed to transfer of membership to appellant within 15 days of receipt of this order without fail.

Hence case is disposed off accordingly and file may sent to the branch of concerned Assistant Registrar for further necessary action.

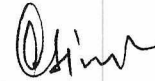


(Ranjeet Singh)

Additional Registrar Cooperative Societies

Copy to:

1. Smt. Anjali Jain, Flat No. B-602, Kesarwani CGHS Ltd, Plot No. 4, Sector-05, Dwarka, New Delhi-110075.
2. President/Secretary, Kesarwani CGHS Ltd, Plot No. 4, Sector-05, Dwarka, New Delhi-110075.



(Ranjeet Singh)

Additional Registrar Co-operative Societies