

**OFFICE OF THE ADDITIONAL REGISTRAR COOPERATIVE  
SOCIETIES**

GOVERNMENT OF NCT OF DELHI

OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI - 110 001

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F.DR-II/RCS/U/s-91/2019/1958-59

Dated: 17/11/2020

**IN THE MATTER OF**

Sh. Mandeep Mann,  
Sadbhawna CGHS  
B-005, Plot No. 11, Sec-11  
Dwarka Phase-I, New Delhi-110075

.....Appellant

**Versus**

The President/ Secretary  
Sadbhawna CGHS  
Plot No. 11, Sec-11  
Dwarka Phase-I, New Delhi-110075

.....Respondent

**ORDER**

This order shall dispose of the appeal filed under Section 91 of DCS Act, 2003 by Sh. Mandeep Mann, dated 10.11.2019 against the President/Secretary of Sadbhawan Cooperative Group Housing Society Ltd.

The appeal has been filed by the appellant against the Sadbhawan 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 17.04.2017. Further he had again sent the reminder to society on after 20.04.2017, but instead of transferring of membership society did not response to the appellant. In his representation he also submitted that the MC members always demanding money from him in various ways rather than accepting his appeal. Accordingly notices were issued to appear before this court on 15.04.2020, 11.08.2020, 21.08.2020, 10.09.2020, 13.10.2020, 20.10.2020.

During hearing Sh. Mandeep Mann, appellant was present in person alongwith Sh. Akshay Bhardwaj, Advocate and the society was represented by Sh. Surender Kumar Sharma, Advocate.

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Sh. Surender Kumar Sharma, Advocate filed a reply dated 17.03.2020 wherein he has stated through various points are as under:-

1. That the appeal is not maintainable U/s 91 of DCS Act 2003, as this section deals with the provision of appeal in case of denial of membership to a person purchasing a flat in Cooperative society from a member of only, and in the present matter a person who has purchased a flat from a non member who is property dealer i.e Smt. Anjali Kalhan.
2. The appellant has purchased Flat no B-005 Sadbhavana CGHS via a sale deed 10.04.2017 from Smt. Ajali Kalhan who had malafidely purchased the flat from Smt. Santosh Rani on 30.11.2016 for sole purpose of trading and making profit and was President of the society from March 2011 to November 2014 with membership No. A203 and continues to be member till date. Unanimous election of Smt. Anjali Kalhan as President and handing over report by Administrator dated 26.03.2011 and 09.04.2011.
3. Smt. Anjali Kalhan alongwith her husband has violated various provisions of DCS Act 2003 and Rules framed thereunder while in a position of authority in the society being it's President.
4. The petition of the appellant is also not maintainable for non-joinder of the seller of the flat B-005, Smt Anjali Khalan did not follow the provision of section 79 of DCS Act 2003 read with Rule 92 of DCS Rules 2007 while purchasing the flat from Smt. Santosh Rani, membership no. 206. On 30.11.2016. The purchase of the flat by Smt. Anjali, Ex-President from Smt. Santosh Rani, was not bonafide as she was already a member with membership no. 274, against flat no. A-203 allotted through draw of lots by DDA on 11.01.2013 and continues to be the member of the society till date.
5. This contract of sale of flat between Smt. Santosh Rani and Smt. Anjali was illegal and void ab initio as it was between two members, violating various provisions of DCS Act 2003 and Delhi Cooperative Rules 2007 and this act was done without the permission or knowledge of the Managing Committee and behind their back.
6. Flat B-005, was sold to the appellant on 10.04.2017 by Sh. Anjali Kalhan, knowing fully well that she has not followed the requirements of law being Ex-President of the society.
7. The flat B-005, the only flat in it's category D of 1500 sq ft. as per DDA records was allotted to Smt. Santosh Rani in the draw done on 31.05.2013 however this flat

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on the ground floor is constructed right below category C flat whose area is 1700 sq.ft, with all the four side projection in complete unison and aligned with the flat above but has been charged in the books of the society with cost of 1500 sq ft only, instead of 1700 sq ft., which apparently was a fraud played by the contractor whose mother-in-law was Smt. Santosh Rani. This fraud perpetuated by the contractor in league with the powers that be, resulted in not only financial loss to the society but also injustice done to other members, allottees of category C flats in the society.

8. Appellant has done illegal constructions in the flat occupied by him such as creating an illegal entry thereby encroaching open space along the staircases entry of B block, covering balconies, encroachment of open space in front of the kitchen, flower pots outside the boundary of flats.

In this furtherance the Advocate of appellant Sh. Akshay Bhardwaj filed the reply wherein he has stated through various points are as under:-

1. The present Application is liable to be dismissed being not enclosed with resolution of the Managing Committee of the society and it is apprehended that after raising this issue a fabricated resolution passed by the Management in this regard with surface before this Hon'ble Forum.
2. Subject to the provision of Section 91 of the Act the purchaser having registered power of attorney or registered agreement for sale or registered sale deed as the case may be, in respect of said plot or flat where draw of lots have been conducted by DDA may apply for membership alongwith the documents as mentioned the committee shall dispose of the application as per the procedure laid down in the said rule therefore appellant herein has not incurred any restrictions as laid down in Section 79 of DCS Act, 2003.
3. As per the observation of Hon'ble Delhi High Court in case titled as Kusum Lata Gupta & Ors V/s RCS & Ors., it is being held 29.01.2007 by the Hon'ble Court that, 'there is no bar on transfer of the flat by the allottee of a flat to a third party and when such a sale takes place by way of execution of transfer deed or agreement for sale, the purchaser of the flat steps into the shoes of the original occupier as he comes into the occupation of the said flat by virtue of the aforesaid transfer, he also becomes entitled to use and occupy the flat and for doing so, he is also entitled to use the common facilities including those facilities which are mentioned in Section 91 of DCS Act, 2003.

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4. The only ground for filing an impleadment application by the respondent society is that the husband of Smt. Anjali Kalhan is a property dealer and some other violation being done by Smt. Anjali Kalhan. The only question to dispose of the present application is that can be working status of the husband of a lady from whom the present appellant purchased their flat will enable this Hon`ble Fora or the respondent society to refuse membership of the society.
5. In the regard of ground floor construction society did not submit any substantial evidence.
6. There is no specific bar for a person to purchase a flat in a cooperative society only from a member. Hence, the structural ground of the application filed by the society herein is weak and bogus and is liable to be dismissed and an exemplary cost may be imposed on the management of the society to be paid from the personal pockets for dictatorial, arbitrary and illegal working practices.
7. Smt. Anjali kalhan was elected as president of the society unanimously hence the stature / membership of Smt. Anjali Kalhan is genuine and valid in the society and the present allegations are levelled might by society due to settle personal grudge from some office bearers of the society.
8. There is no provision in DCS Act & Rules which depicts any liability and / or responsibility of any person who sold his instrument. The appellant herein has purchased flat no. B-005 and till date no objection whatsoever is being raised by anyone on the sale agreement of the appellant herein. Hence, present application is nothing but an abuse of law for further delay the present proceedings and harass the appellant herein.

Upon going through the records, I find that the applicant had applied for membership against flat no B-005 Sadbhavana CGHS Ltd., upon purchasing the same from Smt. Anjali Kalhan. The records shows that Smt. Anjali Kalhan was already holding membership in society against A-203 Sadbhavana CGHS Ltd and flat no B-005 Sadbhavana CGHS Ltd was purchased by her from Smt. Santosh Rani only for selling purpose Since Smt. Anjali Kalhan was holding membership in society against flat no A-203, therefore she was not given membership against flat no B-005. However, the flat no B-005 now stands purchased by Sh. Mandeep Mann therefore he has a right to have membership against flat no B-005 as per Section 91 of the DCS Act, 2003 as otherwise he will not be able to exercise his rights in a society despite having purchased flat in question. No person can be denied his basic right of



membership in a society. Since the membership in a society after allotment flows through the flat therefore, the applicant having purchased the flat is entitled to have membership against flat no B-005 as per Section 91 of DCS act, 2003. Accordingly, the society is directed to grant membership to the applicant within 7 days from receipt of the order.

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. Sh. Mandeep Mann, Sadbhawna CGHS, B-005, Plot No.11, Sec-11, Dwarka Phase-I, New Delhi-110075.
2. The President/ Secretary, Sadbhawna CGHS Plot No. 11, Sec-11, Dwarka Phase-I, New Delhi-110075.



(Ranjeet Singh)

Additional Registrar Co-operative Societies