

**OFFICE OF THE ADDITIONAL REGISTRAR/APPELLATE AUTHORITY
REGISTRAR COOPERATIVE SOCIETIES, GOVT. OF NCT OF DELHI
PORTA CABIN, OLD COURT BUILDING, PARLIAMENT STREET
NEW DELHI-110001**

F.Addl. RCS/U/s/91/Appeal-17/2020/ 2694-2695

Dated: 30/07/2021.

IN THE MATTER OF

Barinder Pal Singh,
102, Sadar Apartments,
Plot no.9, Mayur Vihar Phase-I,
Delhi-110091.

Versus

The President/Secretary,
Sadar Apartments CGHS Ltd.,
Plot no. 9, Mayur Vihar Phase-I,
Delhi-110091.

ORDER U/S 91 OF DCS ACT,2003

Hon'ble High Court of Delhi in WP(C) 2065/2021 titled as "Barinder Pal Singh versus NCT of Delhi and Ors." vide order dated 16/02/2021 has directed that the representations of Shri Barinder Pal Singh to Registrar Cooperative Societies may be treated as appeals for grant of membership under the DCS Act 2003 and be disposed within 30 days which were submitted after refusal letter 30/8/2019 of the Sadar CGHS Ltd wherein the society refused to grant him membership of Society. Accordingly, by this order, I shall dispose of the representations/appeals of Shri Barinder Pal Singh u/s 91 of DCS Act, 2003.

155
06/08/21
Notices were issued to both the parties and opportunities were given to personally hear both the parties and file written submission, counter submission, rejoinder and arguments in the matter.

The brief facts of the matter as per the Appellant are as under:-

The appellant purchased a flat in the respondent society and applied for membership of the society. The Society vide letter dated 30/8/2019 refused to grant him membership on the ground that he had another flat no. D-704 in Ashiana Group Housing Society Ltd. and he is member of that society. The appellant wrote to RCS on 24/11/2019, 17/11/2020 and 02/12/2020 for intervention in the matter stating that he is not the original member but he has purchased flat from a member of society but the society refused to grant him membership on the ground/condition to be complied by original members who formed the society in the very beginning. Such original members may not be member of any other Society or have flat in any other society. He also submitted that after the allotment of flats in Societies, there is no restriction in DCS Act 2003 for any person to purchase flat in more than one Society from the original member. His appeal for grant of membership is fully covered under Section 91 of DCS Act 2003. The appellant emphasized that Section 91 is a Special Provision in DCS Act 2003 for regularization of occupancy rights of purchasers like him and it prevails over the other provisions of DCS Act, Rules and Bye-Laws quoted and misinterpreted by the respondent society. He can have one membership in a housing society but he can be member of other housing societies after purchasing flat as stated above. The appellant further submitted that it is also clear from section 35(7) of DCS Act where disqualification clause (a) reads that "a person cannot hold office on a committee of another cooperative society of same type, if he is already holding office in another cooperative society of same type." Thus Section 35(7) reveals that one person can have membership of more than one society but he cannot hold office in more than one society.

According to respondent society, Cooperative group housing movement in Delhi was started with an objective to provide a house to needy person. The appellant also referred to case titled as "Daulat Ram Vs. Lt. Governor of Delhi and Ors." Civil appeal no. 390 of 1980/28/5/1982 and submitted that full bench of Hon'ble High Court of Delhi, has given its opinion on the Cooperative Group Housing movement and emphatically mentioned the genuine need of the family and made it clear:-

" This purpose would certainly be defeated if there was no limitation on a person or on a family acquiring more than one residential plot."

The society denied membership to appellant on the basis of :-

(1) Rule 23(1) of DCS Rules 2007 which is quoted below:-

"Prohibition of membership in two co-operative societies/federal societies of same class/category:-

(1) No individual or primary co-operative society shall become member of another primary co-operative society or two Federal/ Central/ Apex Society/ Financing Bank of the same class. If an individual or primary cooperative society has become a member of two Apex/ Federal/ Central/ /Financing Bank, his membership of the society lastly enrolled, shall stands ceased. However, the individual or primary co-operative society shall have a right to appeal to the Registrar against the order of the cooperative society within thirty days after the receipt of the order of the termination of membership. The decision of the Registrar shall be final and binding on all concerned:

Provided that the membership of the Apex/ Federal / Central/ Financing Bank shall be restricted to the primary societies of the same category for which the such Federation has been registered. "

(2) Bye-laws of the Society approved by the Registrar Cooperative Society office based on aforesaid rule.

(3) Last para of Section 91 of DCS Act 2003 which is "Provided further that no purchaser shall be entitled for more than one membership in a housing society. "

I have gone through the complete case file and also heard arguments of both the parties, I am of the considered opinion that no purchaser should be entitled for more than one membership in Cooperative Group Housing Societies registered under DCS Act, 2003. Shri Barinder Pal Singh is not entitled for a second membership with Sadar CGHS Ltd. since he is already holding membership of Ashiana Group Housing Society Ltd. Hence, the appeal of Shri Barinder Pal Singh for grant of membership in Sadar CGHS Ltd. is dismissed.

The case file be sent to AR (Section-7/GH) concerned for future reference and record.



(RANJEET SINGH)
ADDITIONAL REGISTRAR

Copy to:-

(1) The Assistant Registrar(Section-7/GH), Registrar Cooperative Societies.

(2) The AR(Computer Cell) with the request to upload this order on the website of our department.



(RANJEET SINGH)
ADDITIONAL REGISTRAR