

**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-36/2020/ 2759-2763

Dated: 11/08/2021

IN THE MATTER OF:

Ms. Manju Jain,
W/o Shri Praveen Jain,
R/o Flat no. 21(North),
Riviera Apartments,
Mall Road,
Delhi-110054.

.....Appellant

Versus

The President/Secretary,
Riviera Apartments Owners Cooperative Housing Society Ltd.,
Riviera Apartments, Mall Road,
Delhi-110054.

Smt. Meena Thukral,
W/o Late Sh. R.S.Thukral,
R/o Flat no. 34(North),
Riviera Apartments, Mall Road,
Delhi-110054.

.....Respondents

ORDER

By this order, I shall dispose of the appeal dated 09/11/2020 filed by Mrs. Manju Jain, Appellant, against the letter dated 06/5/2020 of respondent Society through which it was conveyed that application of Appellant for transfer of membership pertaining to flat no. 21 has been rejected by MC.

The brief facts of the case as per Appellant are:-

AR (Computer cell)

She is occupant of flat no. 21 in the respondent Society, having purchased the flat from one Shri K.S.Rai, the legal and rightful owner of flat, since deceased, against valid consideration of Rs.32,00,000/- on the basis of :-

- i. GPA with consideration duly registered with the office of Sub-Registrar, New Delhi,
- ii Agreement to sell dated 07/02/2008 (unregistered),
- iii Other usual documents viz., Will, Receipt etc.

The Appellant submitted that she is eligible to get the membership of the Society as per Section 91 of DCS Act, 2003.

Notices were issued for hearing. The case was heard on 08/2/2021, 02/3/2021, 30/3/2021 and 06/8/2021. The respondent Society and Smt. Meena Thukral have not appeared in any of the hearings. In the last hearing on 06/8/2021, Shri Arvind Dhingra, the Ld Counsel of Appellant, was present alongwith the husband of Appellant. The counsel of Appellant submitted that the respondent Society has rejected the application on the ground that " Agreement to Sell" submitted by the Appellant is an unregistered document. The counsel further submitted that according to Section 91 of DCS Act, 2003, the registered GPA is sufficient for grant of membership of the Society as there is word used or between agreement for sale & GPA for grant of membership.

On the other hand, according to the respondent Society's letter dated 06/05/2020, the Appellant has reportedly purchased the flat from Shri K.S.Rai and Shri K.S.Rai has purchased the flat from M/s. Jiv Prakash Vidyapeeth. M/s Jiv Prakash Vidyapeeth has executed Agreement to Sell in favour of Shri K.S.Rai on 15/7/2005 and the said document is unregistered and only on notarized document on stamp paper of Rs.50/-. Therefore it conveys no title on Shri K S Rai and therefore General Power of Attorney is invalid because Shri K S Rai has no authority to execute such a GPA in relation to his flat. Further, after careful consideration and deliberation, all the members of MC have unanimously resolved that the agreement to sell is not properly stamped and it conveys no title on Shri K.S.Rai and therefore Shri K.S. Rai had no authority to execute such a GPA in relation to this flat.

Further the appellant has herself stated in the appeal that Sh K S Rai expired after selling the subject property, hence, on his death the subject flat property got



devolved upon the appellant herein being the beneficiary of the last will/Testament of deceased Sh K S Rai.

I have gone through the case file and I am of the considered opinion that the Agreement to Sell dated 15/7/2005 executed by M/s Jiv Prakash Vidyapeeth in favour of Shri K.S.Rai was a notarized document and was not properly stamped. The registration of "Agreement to Sell or GPA" by paying the stamp duty in the office of Competent Authority/Sub Registrar is necessary for grant and transfer of membership according to Section 91 of DCS Act, 2003 more particularly after 24.09.2001. The unregistered Agreement to Sell dated 15/7/2005 in favour of Sh K S Rai did not confer any interest on him pertaining to the subject flat in question. The membership of the society has not been transferred in favour of Sh K S Rai by the society. Therefore, the stand taken by the respondent Society that Shri K.S. Rai had no authority to execute such a GPA in relation to this flat in favour of Appellant while rejecting the application of membership filed by Appellant is as per law.

Moreover, the appellant has herself stated that Sh K S Rai died after selling his flat to the appellant and on his death the subject property got devolved upon the appellant herein being the beneficiary of the last Will. The Will is dated 07.02.2008 and is unregistered. In view of the same, as the matter pertains to devolution on the basis of a Will, the appeal of the Appellant is not maintainable under the provisions of Section 91 of DCS Act 2003.

The case file may be sent to the AR(Section-6/GH).



(RANJEET SINGH)
ADDITIONAL REGISTRAR

F.Addl. RCS/U/s/91/Appeal-36/2020/2759-63

Dated: 12/8/2021

Copy to:-

1. The AR(Section-6/GH), Office of Registrar Cooperative Societies.
2. The AR(Computer Cell), Office of Registrar Cooperative Societies for uploading the order on the website of the department.



(RANJEET SINGH)
ADDITIONAL REGISTRAR