

OFFICE OF THE REGISTRAR COOPERATIVE SOCIETIES

GOVERNMENT OF NCT OF DELHI
OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI - 110 001

No.47/ARH/Sec-II/u/s-86/RCS/2020/ 2363-2364

Dated : 25-03-2021

In the matter of :-

The President/Secretary,
Delhi Hindustani Mercantile Co-operative CGHS Ltd.,
Kailash Apartment, Plot-2, Sector-4, Dwarka
New Delhi-110078

Appellant.....

Versus

Ms. Manju Aggarwal, W/o Mr. P K Agrawal
Flat No. A34, Delhi Hindustani Mercantile CGHS Ltd,
Plot No.2, Sector-4, Dwarka, New Delhi-110078

Respondent.....

ORDER UNDER SECTION 86 (1) OF DCS ACT, 2003

This order shall dispose of the application made by applicant society, bearing this office Diary No.8850 dated 12-03-2019.

This order shall dispose of the application made by applicant society. The applicant society, made an application to this office for approving the action of expulsion of respondent under DCS Act and Rules, resolved by the Managing Committee on 30.06.2020, on the ground that membership of said member is void-ab-initio, and membership is obtained by making false statement and/or submitting false document to obtained membership of the cooperative society. The applicant society issued three expulsion notices to the member on 15.02.2020 , 26.05.2020 and the applicant society issued a final notice to the member on 17.06.2020 and the respondent replied to notices on 15.05.2020, 29.05.2020 and 25.06.2020 but the society was unsatisfied with the reply. The Managing Committee of applicant society vide its meeting dated 30.06.2020 resolved to expel the members from the membership of the society, and referred the matter to this office for seeking approval thereof, under DCS Act and Rules.

Applicant society has raised various points in his application/notices are as under:-

1. That the respondent has availed membership no. 399 of the society in violation of Section 91 of the DCS Act, 2005, Rules and bye-laws, etc., that is void-ab-initio, as her membership had been granted on 26.01.2013, therefore the same is explicitly anti-dated to the application/affidavit/papers in support thereof, whereas the application/affidavit/papers in support thereof had been executed on 28.01.2013 or

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- thereafter, are post-dated i.e., executed subsequently and after the grant of the membership on 26.01.2013.
2. Nishant CGHS Ltd., Plot No.5, Sector-19B, Dwarka Phase-II, New Delhi, Membership No. 179, is the name of Sh. P.K. Agarwal, who is her spouse.
 3. The Gulshan-E-Iqbal CGHS Ltd., Plot No.3, Sector-19, Dwarka Phase-II, New Delhi, Membership No.346 is again in the name of aforesaid Sh. P.K. Agarwal, who is her spouse.
 4. Delhi Hindustani Mercantile CGHS Ltd., Plot No.2, Sector-4, Dwarka, New Delhi-110078, Membership No. 399, is in her own name since year 2000.
 5. All aforesaid three flats are having registered address as A-34, Kailash Apartments, Plot No. 2, Sector-4, Dwarka, New Delhi-110075.
 6. Respondent have radically changed the complete lay out of her flat by way of demolishing the internal walls, shifting of kitchen to the place of drying room, resulting exposure of the unit beneath to the seepage and electrical short circuits as well as extending of her balcony which is violation of bye-laws and provisions of DCS Act and Rules.

The matter was examined and proceedings were initiated under Section 86 of DCS Act, 2003. Accordingly, notices were issued to all the concerned for providing opportunity. Applicant society was represented by Sh. Ramesh Chandra, Advocate and respondent was represented by Sh. Swastik Singh and Sh. Amandeep Bidhan, Advocate. Oral arguments of both the parties heard and their respective written submissions/rejoinder were also obtained and placed in case file.

The representative of respondent submitted through his reply bearing diary number 24.09.2020 wherein the reply of various points as are under:-

1. That society did not follow the procedure come under section 86 of DCS Act 2003, read with Rule 99 of DCS Act 2007.
2. that the society did not follow the procedure u/s 86(1) no member shall be expelled unless a resolution to that effect is passed by not less than three-fourths of the members of the committee present and entitled to vote at the meeting and no resolution for expulsion shall be valid unless approved by the Registrar.
3. Society did not follow the rule of 99 of DCS Act 2007 wherein "The cooperative housing society may in accordance with provision of sub section (1) of Section 86, expel a member. However, before passing a resolution for expulsion of the member, the committee shall have to deliberate the case of expulsion in the committee's meeting and shall have to approve the proposal for issue of notice for the expulsion of a member setting out there in full details of the grounds with supporting documents in all at least three registered notices shall be served on the concerned member with an opportunity to defend his case in writing and also in person to the committee. Each notice should be served on the concerned member with an interval of thirty days. After the expiry of thirty days period of the final notice, the committee

- shall consider the reply, if any, received from the concerned member in its meeting and three-fourths of the members of the committee present and entitled to vote at the meeting shall approve the proposal for expulsion and pass a resolution.
4. that no notice issued with an interval of thirty days or no personal hearing were called, no final notice published in news paper also he submitted that difference in the date of document is because the respondent was called for attestation of document on different date and further he has mention section 39 of DCS Act 2003 wherein it is mention that " No act of cooperative society or of any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in procedure or in the constitution of the cooperative society or of the committee or in the appointment or election of an officer or on the ground that such officer was disqualified for his appointment".
 5. Society has not shown where the respondent has dual membership or in which society.

On going through the submission made by both the parties and all record reply/rejoinder available in the case file, it is observed that society is unable to adduce relevant documents for ascertain the finding against the respondent.

It is also pertinent to mention here that Society did not follow the rule of 99 of DCS Act 2007 wherein "The cooperative housing society may in accordance with provision of sub section (1) of Section 86, expel a member. However, before passing a resolution for expulsion of the member, the committee shall have to deliberate the case of expulsion in the committee's meeting and shall have to approve the proposal for issue of notice for the expulsion of a member setting out there in full details of the grounds with supporting documents in all at least three registered notices shall be served on the concerned member with an opportunity to defend his case in writing and also in person to the committee. Each notice should be served on the concerned member with an interval of thirty days. After the expiry of thirty days period of the final notice, the committee shall consider the reply, if any, received from the concerned member in its meeting and three-fourths of the members of the committee present and entitled to vote at the meeting shall approve the proposal for expulsion and pass a resolution and it is also seen that society has not shown where the respondent has dual membership or in which society.

In the view of discussion, the record available in case file and observations made hereinabove, I am of the opinion that the allegation made by the applicant society for proceedings of expulsion of membership of the said members initiated against the respondent is dismissed.

The case is disposed off, accordingly.

The case file may send to the concerned Assistant Registrar Cooperative Society /
Section to keep the same on record.



(Ranjeet Singh)

Additional Registrar Cooperative Societies

To

1. The President/Secretary, Delhi Hindustani Mercantile Co-operative CGHS Ltd.,
Kailash Apartment, Plot-2, Sector-4, Dwarka, New Delhi-110078.
2. Ms. Manju Aggarwal, W/o Mr. P K Agrawal, Flat No. A34, Delhi Hindustani
Mercantile CGHS Ltd, Plot No.2, Sector-4, Dwarka, New Delhi-110078.



(Ranjeet Singh)

Additional Registrar Cooperative Societies