

IN THE COURT THE SPECIAL REGISTRAR COOPERATIVE SOCIETIES
GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI-110001.

F.No.: Spl. RCS/Us-40/2022/1439-1442

Dated.: 03/10/2022

IN THE MATTER OF:-

Saini Cooperative Thrift & Credit Society Ltd.,
(President/Secretary)
2420-21 Kamra Bangash
Darya Ganj, New Delhi-110002

.....Petitioner


Versus

Sh Shyam Singh Saini
Flat No.: 102, Mann Bhawan
Near Shiv Mandir,
Holambi Khurd
Delhi-110082



.....Respondent

ORDER


1. This order shall dispose off the petition under section 40 of the DCS Act 2003 read with Rule 31 of the DCS Rules 2007 filed by the petitioner society for approval of resolution dated 08.06.2022 of Managing Committee for expulsion of Sh Shyam Singh Saini, a member of the society.
2. The petitioner society in its dossier dated 13.06.2022 submitted on 13.06.2022 has stated that Sh Shyam Singh Saini, R/o Flat No.: 102, Mann Bhawan, Near Shiv Mandir, Holambi Khurd, Delhi-110082, a member of the society "Saini Co-operative Thrift & Credit Society Ltd., as also a member of Managing Committee elected on 28.11.2021, has been expelled under the provisions of Section 40 of DCS Act 2003 read with Rule 31 of DCS Rules 2007 in Managing Committee Meeting held on 08.06.2022 in the society.
3. The dates and events submitted by the petitioner society are as follows:-
 - i. Sh Shyam Singh Saini submitted a complaint dated 09.04.2022 on 11.04.2022 with the society. The complaint had allegations against the society and its Managing Committee Members/Officials and is nothing but an attempt to somehow or the other put road blocks in proper working of the society.


31/10/2022

- ii. Sh Shyam Singh Saini circulated and published on 24.04.2022 a message on Whatsapp group of which he is the Admin. The message has been read by hundreds and hundreds of members of the society.
 - iii. The Whatsapp message brought disrepute to the society as numerous pointed verbal queries were received by the Office Bearers of the society regarding proper working of the society as also various letters were received in the society whereby the image and prestige of the society has been deeply tarnished.
 - iv. It was decided in a Managing Committee Meeting held on 30.04.2022 that action be initiated against Sh Shyam Singh Saini under the provisions of Section 40 of DCS Act 2003.
 - v. A Show Cause Notice dated 05.05.2022 was issued to Sh Shyam Singh Saini calling upon him to appear in person and submit his explanation before the Managing Committee on 23.05.2022 at 4.30 PM.
 - vi. Sh Shyam Singh Saini appeared in person on 23.05.2022 and submitted his reply dated 23.05.2022.
 - vii. The reply dated 23.05.2022 of Sh Shyam Singh Saini was considered in the MC Meeting dated 23.05.2022 and found to be unsatisfactory.
 - viii. Another Show Cause Notice dated 30.05.2022 was issued to Sh Shyam Singh Saini calling upon him to appear before the Managing Committee on 08.06.2022 at 4.00 PM and submit his explanation. Copies of various letters received in the society after circulation of Whatsapp message were annexed with the Show Cause Notice.
 - ix. Sh Shyam Singh Saini appeared personally on 08.06.2022 and submitted his reply dated 08.06.2022. The reply was considered by the Managing Committee Members on 08.06.2022 and again found it to be unsatisfactory.
 - x. It was resolved in the MC meeting dated 08.06.2022 to expel Sh Shyam Singh Saini under the provisions of Section 40 of DCS Act 2003 read with Rule 31 of DCS rules 2007.
4. The petitioner society forwarded the resolution dated 08.06.2022 of the Managing Committee for approval to Office of Registrar Cooperative Societies for expulsion of Sh Shyam Singh Saini.
 5. The society had annexed all relevant documents with its dossier dated 13.06.2022.


 
9/6/2022

6. Taking cognizance of the proposal for approval, notice dated 14.06.2022 was issued for appearance of both the parties for 14.07.2022.
7. An application dated 14.07.2022 under section 133 of DCS Act 2003 was submitted in DAK on 14.07.2022 by the respondent. Vide the application dated 14.07.2022 the respondent sought various documents from the petitioner society which are as follows:-
 - i. The certified copies of the proceedings of the Managing Committee meetings held from 01.12.2021 till date.
 - ii. Certified copies of the vouchers with bills and quotations of the expenses incurred in the Society from 01.12.2021 till date.
 - iii. Certified copies of the vouchers with bills and quotations of the expenses AGM held on 19.03.2022.
 - iv. All receipts issued by the post office against the speed post of the AGM books sent to the members of the society.
 - v. CCTV recordings of the meetings of the Managing Committee from 01.12.2021 to till date and AGM dated 19.03.2022.
8. The respondent further stated in the application that the documents sought are necessary and essential for proper response to be given by the Respondent to the Show Cause Notice issued by this Court.
9. The Respondent prayed that directions be issued to the petitioner Society to provide documents immediately so that detailed reply can be filed by the Respondent to the Show Cause Notice.
10. A reply was filed by the petitioner society to the application under section 133 of DCS Act 2003 filed by the respondent. The reply of the petitioner society stated that the Court hearing expulsion proceedings under the provisions of section 40 of DCS Act 203 does not have powers of Section 133 of DCS Act 2003 and in view of the same the application of the respondent is not maintainable and is liable to be rejected.
11. The respondent argued on the application under section 133 of DCS Act 2003 that wrong mentioning of provision on the application is not material if the Court has power to grant relief. The respondent relied upon Judgments of Hon'ble Supreme Court of India in the matter of Pruthvirajsinh Nodhubha Jadeja versus Jayeshkumar Chhakaddas Shah and that of P.K.Palanisamy versus N Arumugham and also relied upon Judgment of Hon'ble High Court of Delhi in the matter of Directorate of Enforcement versus Rajiv Saxena.
12. It is correct that documents can be summoned by this Hon'ble Court while hearing a petition under section 40 of DCS Act 2003. However, the documents


3/X/2022

to be summoned is the discretion of the Court depending on the relevancy of the documents sought to be produced.


13. After hearing arguments from both the parties and after perusing the provisions of DCS Act 2003 and Judgments placed on record by the respondent, the petitioner society was directed on 05.08.2022 to produce copies of minutes of the Managing Committee Meetings dated 23.05.2022 and 08.06.2022. The application under section 133 of DCS Act 2003 of the respondent was disposed off in the above terms.
14. On 29.09.2022, none appeared on behalf of the respondent. The petitioner society produced copies of the minutes of the Managing Committee Meetings dated 23.05.2022 and 08.06.2022 and also produced copy of registration of bye-laws of the society showing the petitioner society to be registered as Urban Thrift & Credit Society Ltd.,
15. Arguments were heard from the Ld Advocate of the petitioner society on 29.09.2022.
16. Provisions of section 40 of DCS act 2003 read with Rule 31 of DCS Rules 2007 have been complied with by the petitioner society. More than three fourth of the Managing Committee members present on 08.06.2022 and entitled to vote have voted for expulsion of Sh Shyam Singh Saini. Fourteen members of the Managing Committee participated in voting on 08.06.2022 out of which thirteen voted for expulsion of Sh Shyam Singh Saini.
17. The whatsapp message circulated by Sh Shyam Singh Saini on 24.04.2022 prima facie contains per se defamatory words and allegations against the society and working of its Managing Committee Members and Officials. Sh Shyam Singh Saini has alleged corruption in the society and also stated that Vice President Sh Rajesh Saini has said that for last thirty years the Managing Committees of the society are misappropriating monies and if the present Managing Committee is also doing so than what is the problem with Sh Shyam Singh Saini.
18. Sh Shyam Singh Saini has not been able to justify his act of circulating the whatsapp message which contained prima facie per se defamatory words, allegations and imputations against the society and its Managing Committee Members.
19. The petitioner society has six letters received by it from its members after circulation of the whatsapp message on 24.04.2022 by Sh Shyam Singh Saini. In view of the contents of the six letters placed on record by the petitioner society, the whatsapp message circulated by Sh Shyam Singh Saini on 24.04.2022 has certainly brought disrepute to the society.
20. I am satisfied that proposal for expulsion of Sh Shyam Singh Saini is fully covered under the provisions of section 40 of DCS Act 2003 read with Rule 31


31/10/2022

of DCS Rules 2007 as made out from the contents of the whatsapp message circulated by Sh Shyam Singh Saini on 24.04.2022.

21. In exercise of powers vested in me as per allocation of powers dated 11.03.2021 of Secretary cum RCS, I hereby approve the resolution dated 08.06.2022 of the Managing Committee of the society for expulsion of Sh Shyam Singh Saini from the membership of the society. Sh Shyam Singh Saini stands expelled from the membership of the society " Saini Cooperative Thrift & Credit Society Limited." w.e.f. date of the order.

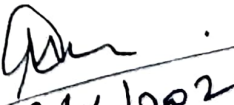
It is ordered accordingly.


31/8/2022

(Dr. T. Philip Thanglienmang)
Special Registrar Cooperative Societies

Copy to:-

1. Saini Cooperative T/C Society (through President/Secretary), 2420/21 Kamra Bagas, Darya Ganj, New Delhi-110002.
 2. Sh. Shyam Singh Saini, Flat No.: 102, Mann Bhawan, Near Shiv Mandir, Holambi Khurd, Delhi-110082
1. AR(Banking)
 2. ~~In-charge (Computer Cell) for uploading on website~~


31/8/2022

(Dr. T. Philip Thanglienmang)
Special Registrar Cooperative Societies