

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

F. No. 47/838/GH/Sec-2/2017/3824-3830

Dated: 24/02/2023

**ORDER**

In the matter of:-

1. SH. VIRESH
2. SH. VIJAY KUMAR GOEL
3. SH. U.C. RATTAN

..... COMPLAINANT

VERSUS

1. SH. DHARAMBIR SINGH GAHLAN
2. DR. NABIN KUMAR PANDA

.....RESPONDENT

In Reg: DR. RMLH & NH CGHS Ltd

**ORDER**

This order shall dispose of the proceedings initiated against Sh. Dharamvir Singh Gehlan and Sh. Nabin Kumar Panda U/s 41 of DCS Act 2003 read with Rule 20(1) of DCS Rules, 2007 vide Show Cause Notice dated 13.12.2017.

Whereas a complaint has been received on 15.11.2016 from Sh. Viresh, Sh. Vijay Kumar Goel and Sh. U.C. Rattan regarding cessation of membership of Sh. Dharamvir Singh Gehlan, President and Dr. Nabin Kumar Panda, Secretary of Dr. RMLH and NH CGHS Ltd. and to dissolve the committee of the Society.

Whereas, the complainants have alleged that Sh. Dharamvir Singh Gehlan is a property dealer and has a shop in Sector-11, Dwarka, New Delhi and he was also convicted for cutting five Neem trees in the Society premises and a penalty of Rs.50,000/- was imposed by Forest Department which was paid from Society fund. It is further alleged that an advance of Rs. 2961/- was taken by Dr. Nabin Kumar Panda on 17.09.2006 from the Society when he was President and he had never submitted any amount to the society against the said advance. Sh. Nabin Kumar Panda had also not deposited an amount of Rs. 7700/- as one time property tax collected from all the members.



Accordingly, a Show Cause Notice dated 13.12.2017 U/s 41 of DCS Act, 2003 read with Rule 20(1) of DCS Rules, 2007 was issued to Sh. Dharamvir Singh Gehlan and Dr. Nabin Kumar Panda.

Whereas, Complainants as well as the Respondents have filed written submissions from time to time during the course of proceedings to present their case before the undersigned.

Whereas, Sh. Dharamvir Singh Gahlan filed a reply dated 06.02.2018 in his defence wherein he submitted that, the filing of the petition is misuse of the process of law. It is pertinent to mention that the complainants namely Sh. Viresh. Vijay Kumar Goel and U.C. Rattan had earlier been filing frivolous and baseless complaints out of personal malice as they had been contesting the election against the respondents and other members of managing committee but had lost the two previous elections as they are not having any mandate in the society. They are habitual of indulging in blackmailing tactics as is being done now. It is relevant to mention that the name of the answering respondent has been mentioned wrongly as "Dharamvir Singh Galhan" though the respondent is named Dharmvir Singh.

That the complainant has filed a bunch of papers most of which are irrelevant is the allegations contained in the notice under reply. The so called petition u/s 41 read with rule 20 is wholly vague and not in accordance with the well settled principles of pleadings. For example- in the Index to the documents marked as Annexures P1 to Annexure P 16 are shown to have been filed where as reference in the petition is only of the Annexure P-10, P-15 and P-16 are mentioned. This shows filing of the petition in a casual confusing manner. It is not clear as to which document is relevant to prove the allegation of being a property dealer. The petition is therefore liable to be dismissed on this ground alone. It is further submitted that the petition is by and large a repetition of the allegations which have already been disposed off by the Id. Arbitrator in award dated 21.2.2013, passed by the Ld. Arbitrator Sh. K.S Meena and copy of the same is available with the petition at Pages 140-149. The appeal against the said award was dismissed by the Ld. Presiding Officer Delhi Corporative Tribunal vide order dated 10.07.2015. The relevant part of the said order is produced below:

*"33. Thus the appellants are pursuing the remedy to get R2 disqualified on the ground of his being a property dealer, before a wrong forum.*

34. *We repeat that before the returning office there was no such finding disqualification of R2.*

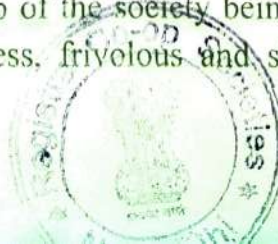
35. *We do not find any illegality, impropriety and infirmity in the impugned award. The appeal is accordingly dismissed.*

36. *It is for the appellants to decide as to whether they would still like to pursue the representations made to the RCS or not. They shall be at liberty to make use of the DVD if they so wish, before the RCS".*

In view of the forgoing observations of the Ld. Tribunal no other allegation than that of the respondent being a "property dealer" can be looked into. The allegations in the notice such as not furnishing of the account of Rs. 2961/- by Dr. Nabin Kumas Panda on 17.09.2006 and alleged non deposit of Rs. 7700/- as one time property tax have already been considered in the arbitration case. This Hon'ble court cannot sit over the judgement of the Ld. Tribunal and in any case the consideration is barred by principle of res judicate as laid down in section 11 of the CPC 1908 and also beyond the scope of rule 20 of DCS Rules 2007. Similarly the allegation of alleged imposition of penalty of Rs. 50,000/- imposed by the Forest Department and paid by the society also beyond the scope of section 41 read with rule 20. It therefore follows that the respondent is only required to reply to the allegation to the effect of being a property dealer.

The allegation made by the complainants that the answering respondent is a property dealer is wholly false, baseless and misconceived and is specifically denied. The documents such as visiting cards, advertisements, copy of the board, filed at Pages 160-164 of the petition are forged and fabricated A reference has also been made of alleged DVD in para 23 of the petition but no such document has been filed as per details contained in the index. However, it is submitted that the DVD was filed before the L.d. Presiding Officer, Delhi Cooperative Tribunal. The alleged contents of the transcript filed by the complainants before the Tribunal was forged and fabricated and the same did not contain the voice of the respondent.

That, the answering respondent is not an original member as he had purchased the flat at a cost of Rs. 84.00 Lacs including stamp duty. The complainants are wrongly and erroneously harping that the respondent is not eligible for membership of the society being a property dealer. This allegation is wholly baseless, frivolous and shows non-application of



mind and non-appreciation of the provisions of the DCS Rules, 2007. In view of the provisions contained in Rule 20, the said rule is not applicable in case of a person who has acquired power of attorney or through agreement for sale and on conversion of the property from leasehold to freehold on execution of conveyance deed for it, if such person applies for the transfer of membership of the housing society concerned. The respondent has already obtained membership of the society. It is pertinent to mention that the respondent purchased free hold flat by execution of a valid sale deed and at the prevailing market price. Rule 20 is not applicable in the present case.

That without prejudice to the submissions made herein before it is relevant to submit further that the flat was allotted to the original members in the year 2002 and Rule 20 is not applicable in the present case for cessation of membership. In this regard reliance is placed on Rule 100 of the Delhi Co-operative Societies Rules, 2007 which reads as under-

*"For cessation of membership, on the grounds mentioned in section 87 the co-op housing society shall produce document to prove the grounds and the member against whom action is being taken shall be informed in advance. Cessation of membership shall be deemed to be effective from the date when the registrar accord approval of cessation of membership. Provided that the addition ground for cessation of membership mentioned in section 7 shall not be raised after three years allotment of flat or plot, as the case may be".*

A careful reading of the said provision shows that the intention of the legislature had been not to take up the issue under consideration after three years of the date of allotment and as such the issue is barred by limitation. In view of the forgoing facts there is no merit in the allegations made to the complainants and reproduced in the show cause notice under reply. It is there prayed that the notice may kindly be withdrawn.

Whereas, petitioners filed rejoinder on the reply of the respondent wherein the petitioners has submitted as under:

That, the contents of the para A of the Preliminary Objections in Reply is wrong and denied. It is denied that the filing of the petition is misuse of the process of law. It is denied that the complainants have been filing frivolous and baseless complaints out of personal malice as they had

been contesting the election against respondents and other members of managing committee but had lost the two previous elections as they are not having any mandate in the society. It is denied that they are habitual in blackmailing tactics as being done now. It is wrong and denied that the name of answering respondent has been mentioned wrongly as "Dharamvir Sing Gahlan though the respondent is named Dharamvir Singh. It reiterated that the Dharamvir Singh and Dharamvir Singh Gahlan is one and the same person. The name " Dharamvir Singh Gahlan" appearing at various places including orders of Hon'ble DCT and various letters received from the office of Registrar Co-operativ Societies. Some of these documents/places where word Gahlan there along with Shri Dharamvir Singh are as under:

"Gahlan House" is mentioned along with Dharamvir Singh the name plate fixed outside his Flat No. 441, Plot No.2, Dr. RMLH & NHE CGHS Ltd, Dwarka, New Delhi "Gahlan Properties" is mentioned in the advertisement along with the name "Dharamvir Gahlan" in the advertisement in the magazine in Kayasth Patrika, page no. 48 of the magazine in the Annexure P-11 attached with the petition at page 168 and also at page no.59 of the magazine at page no. 169 of the petition. In the Voters list of Matiala Constituency of Delhi, the name of wife of Sh. Dharamvir Singh Gahlan is appearing as Smt. Sudesh Gahlan and name of his son is appearing as Siri Deepak Gahlan.

"Dharamvir Singh Gahlan" is appearing at number of places in the Inquiry Report dated 13th February, 2017 submitted by Shri A.K.Srivastava, Inspecting Officer appointed u/s 61 of DCS Act, 2003.

"Dharamvir Singh Gahlan" is appearing at number of places in the Inquiry Report dated 11 April, 2017 submitted by Shri A.K.Srivastava, Inspecting Officer appointed u/s 61 of DCS Act, 2003.

"Dharamvir Singh Gahlan" is appearing at number of places in the letter dated 21st September, 2017 issued by Shri Kulvendra Yadav, Asstt. Registrar, office of RCS, New Delhi.

"Dharamvir Singh Gahlan" is appearing in the order dated 10 July, 2015 passed by the Hon'ble DCT, New Delhi.

"Dharamvir Singh Gahlan" is appearing at number of places in the letter dated 29 February, 2016 issued by Shri Pawan Kumar, Asstt. Registrar, office of RCS, New Delhi.



That the contents of the Para B, of the Preliminary Objections in the reply are wrong and denied. It is denied that the complainants have filed a bunch of papers most of which are irrelevant to the allegations contained in the notice under reply. It is further denied that the so called petition u/s 41 read with Rule 20 is wholly vague and not in accordance with the settled principles of pleadings. It is denied that the filing of the petition has been done in a casual confusing manner. It is denied that the petition is liable to be dismissed. It is denied that the petition is by and large a repetitions of the allegations which have already been disposed off by the Ld' Arbitrator in award dated 21.2.2013 passed by the Ld' Arbitrator Shri K S Meena. It is denied that the appeal against the said award was dismissed by the Hon'ble DCT on merits. It was dismissed by making observations that the appellants are pursuing the remedy to get R2 disqualified on the ground of his being a property dealer, being a wrong forum. It is denied that the present petition is barred by principle of res judicata as laid down in Section 11 of the Code of Civil Procedure, 1908. It is further wrong and denied that alleged imposition of penalty of Rs.50,000/- imposed by the Forest Department and paid by the Society is beyond the scope of Section 41 read with rule 20.

That the contents of the para 1 of the Reply on Merits are wrong and denied. It is denied that the allegation made by the complainants that the answering respondent is a property dealer is wholly false baseless and misconceived. It is denied that documents such visiting cards, advertisements, copy of the board filed at Pages 16 164 of the petition are forged and fabricated. It is stated that the DVD is already in the record and was submitted before the Hon'ble DCT is wrong and denied that the alleged contents of the transcript filed the complainants before the Tribunal was forged and fabricated as the same did not contain the voice of the respondent.

2. That the contents of the para 2 of the Reply on Merits are wrong a denied. It is not denied that the answering respondent is not an original member. It is denied that the compianants are wrongly and erroneously harping that the respondent is not eligible for membership of the society being a property dealer. It is denied that the allegation is wholly baseless, frivolous and shows non-application of the mind and non-appreciation of the provisions of the DCS Rule 2007. It is wrong and denied that the in view of the provision contained in Rule 20, the said rule is not applicable in case of a person who has acquired on power of attorney or through agreement for sale and conversion of the property from leasehold to

freehold on execution of conveyance deed for it. if such person applies for the transfer of membership of the housing society concerned. It is reiterated that the respondent has obtained membership of the society in an illegal manner. It is wrong and denied that as the respondent has purchased freehold flat by execution of a valid sale deed and at the prevailing market price, Rule 20 is not applicable.

3. That the contents of the para 3 of the Reply on Merits are wrong and denied. It is denied that the as the flat was allotted to the original members in the year 2002 so the Rule 20 is not applicable in the present case. It is denied that the issue is barred by limitation.

In view of the above, it is respectfully submitted that the submissions made by the respondent are baseless and without any force of law and the same needs to be rejected in toto. It is denied that the complainants are harassing the respondent. It is denied that the respondent is entitled to the cost of Rs.50,000/- towards the cost of litigation. It is submitted that the appropriate orders as per DCS Act may be taken against the respondent as there are grounds for cessation of membership of the respondent.

Whereas, in the hearing dated 16.02.2021, the predecessor of this court has ordered as under:

*Present Sh. M.P. Arora, Advocate alongwith Shri U.C.Rattan and Mr. Viresh complainants/petitioners. Present Sh.J.N.Gupta alongwith Sh. Dharamvir Gahlan, President of Managing Committee of the Society who is member and allottee of Flat No. 441 Dr. RLMH &NH CGHS Ltd. Rama Apt. Plot no. 2 Sector 11, Dwarka.*

*As per the Advocate Sh. M.P Arora, the proceedings in the present case are and shall remain confined to the claim petition of the petitioners who are seeking the disqualification of Sh. Dharamvir Gahlan a member of the Society on account of his attracting disqualification mentioned at Sub section 2 of the Section 41 read with Rule 20(1) (c) (ii). Further the claimant/petitioner has also drawn attention to other aspects of the Show Cause Notice relating to felling of trees and certain other issues which are not material or relevant to the present proceedings. Hence, any reference in the Show Cause Notice to above issues in pursuance of which proceedings are being taken today to those aspects shall stands deleted and the notice shall stand amended accordingly. The*

claimant/petitioners shall be free to pursue appropriate remedies available to them in accordance with law on those issues before the appropriate legal forum and the matter will not be agitated any longer in present proceedings.

Sh. M.P. Arora, states that the noticee, who is not an original member had subsequently acquired membership which as per the clause 20(1)(c)(ii) should be ceased in view of the disqualification mentioned therein as he is dealing with sale and purchase of properties. An application has also been filed today before the Registrar of Cooperative Societies by Sh. M.P. Arora, seeking production of certain documents in respect of his contentions that Sh. Dharamvir Gahlan is engaged in business of property.

I have considered the application and find no ground to interfere or pass any order thereon as the disqualification if any attributed to Sh. Dharamvir Gahlan has to be proved by the petitioners and the onus lies on them. The agency of the court is not willing to become a party to prove the same.

Shri JN Gupta Advocate is present alongwith Shri Dharamvir Gahlan, respondent member and noticee. Sh. J N Gupta draws attention to the Rule 20(1)(c)(i)(b) and states that in view of the proviso below rule 20 (1)(c)(i)(b) which states that "Provided that above clause shall not be applicable: in case of a person who has acquired property on power of attorney or through agreement for sale and on conversion of the property from leasehold to freehold on execution of conveyance deed for it, if such person applies for the transfer of membership of the housing society concerned.", no disqualification is attracted in the present case as the flat under reference was purchased by the noticee from the original member. He has also drawn attention to the petition seeking disqualification being time barred in view of the time period of three years prescribed under Rule 100

Whereas, the petitioner filed reply on 03.03.2022 wherein they had submitted as under:

This is with reference to the proceedings in the above matter. It is submitted that in the FIR No. 0391 dated 21.09.2020 registered at police station Sector-23, Dwarka, New Delhi, Shri Dharamvir Singh Gahlan has stated that he is engaged in the business of builder & he along with



others has constructed Gahlan Avenue I & II in Street no. 03, village Pochanpur, Sector-23, Dwarka, New Delhi.

That, the above statement in FIR proves beyond doubt that he is engaged in real estate activities. By engaging in such activities, he is liable to be disqualified as a member of a society as per Rule 20 of DCS Rules, 2007 and on his incurring disqualification he ceases to be member of the cooperative societies as per section 41 of DCS Act, 2003

Whereas, in the hearing dated 01.11.2022 it is noted as under:

*“Present Sh. M.P. Arora Advocate for the Complainants alongwith Sh. Viresh, Complainant in person.*

*Present Sh. Nabin Kumar Panda and informs that the counsel representing himself and Sh. Dharambir is not present today due to personal tragedy.*

*It is noted that during the proceedings dated 16.02.2021, predecessor of this court has ordered that the present proceedings shall remain confined to petitioners seeking disqualification of Sh. Dharambir Gahlan, member of the society Under section 41 (2) of DCS Act, 2003 R/w Rule 20 (1)(c)(ii) of DCS Rules, 2007. Accordingly, the proceedings against Sh. Nabin Kumar Panda stands disposed of. Consequently, Sh. Nabin Kumar does not need to attend these proceedings anymore.”*

Whereas, in the hearing dated 06.12.2022, it was noted as under:

*“Present Sh. U.C. Rattan and Sh. Viresh, Complainant alongwith Sh. M.P. Arora, Advocate. Present Sh. Dharambir Singh Gahlan Respondent in person.*

*Sh. Dharambir Singh Gahlan informs that his counsel is not well, further on enquiry by the court, he has accepted over his reply dated 06.12.2018 and submitted that nothing more to add in the reply and requested for withdrawal of SCN dated 13.12.2017.*

*The Counsel for the complainant has submitted that his reply is also on record. The election record of the society be attached in the case file. If, any party wants to submit any documents, the same will have to be submitted till 09.12.2022.*

*The case is reserved for orders.”*



In view of the above and after perusal of the submissions/ arguments made by both parties, I am of view that Sh. Dharamvir Singh Gehlan does not incur any disqualification U/s 41 of DCS Act 2003 read with Rule 20(1) of DCS Rules, 2007 as he is not original allottee and had purchased the said flat from the original allottee. There is no provision under the DCS Act and Rules which restrict any member from pursuing profession of their choice after initial enrolment as member and after allotment of flat. The complaint petition is accordingly dismissed as devoid of merits. The parties are at liberty to avail appropriate legal remedies as per DCS Act, 2003 and Rules, 2007. Ordered accordingly.

  
23/04/2023  
**Krishan Kumar**

**Registrar Coop. Societies**

Sent To:-

1. Sh. Dharamvir Singh Gahlan, President of Dr. RMLH & NH CGHS Ltd, R/o Flat no. 441, Rama Apartment, Plot no. 2, Sector-XI, Dwarka, New Delhi-110075
2. Dr. Nabin Kumar Panda, Secretary of Dr. RMLH & NH CGHS Ltd, R/o Flat no. 543, Rama Apartment, Plot no. 2, Sector-XI, Dwarka, New Delhi-110075
3. Sh. Viresh R/o Flat no. 482, Rama Apartment, Plot no. 2, Sector-XI, Dwarka, New Delhi-110075
4. Sh. Vijay Kumar Goel, R/o Flat no. 111, Rama Apartment, Plot no. 2, Sector-XI, Dwarka, New Delhi-110075
5. Sh. U.C. Rattan, R/o Flat no. 454, Rama Apartment, Plot no. 2, Sector-XI, Dwarka, New Delhi-110075
6. ARCS (Section-2 Housing) O/o RCS
7. Incharge Computer Cell with direction to upload the Order on Website of the Department

  
**Krishan Kumar**

**Registrar Coop. Societies**