

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

Case no. RCS/009/08/S/W/6153-6159

Dated: 22/09/2023

ORDER

In the matter of:-
Sh. Dinesh Kumar

.....Petitioner

Versus

Smt. Aparna Bassi
&
Sh. Anil Kumar Bassi

.....Respondent

In Reg: Mount Everest CGHS Ltd.
Shiam CGHS Ltd.

This order shall dispose of proceedings initiated under the provisions of rule 20 of the Delhi Co-operative Societies Rules, 2007 against Smt. Aparna Bassi, a member of Mount Everest Co-op Group Housing Society Ltd. (under Membership No 306) & having membership in Shiam CGHS Ltd, vide membership no. 146 and her husband, Sh. Anil Kumar Bassi, a member of Shiam C.G.H.S. Ltd. (under Membership No.217). On receipt of a complaint from one, Shri Dinesh Kumar, R/o Flat No.273, Abhiyan Apartments, Plot No.15, Sector 12, Dwarka, New Delhi-110075, show-cause notice was issued to the concerned members as well to the co-operative group housing societies concerned vide No RCS/010/08/S/W/653-656 dated 29.04.2008

Brief facts of the case

A Complainant has been filed by Sh. Dinesh Kumar wherein he alleged that Smt. Aparna Bassi is a member of Mount Everest CGHS (membership No.306) and of Shiam CGHS (Membership No 146) while her husband Sh. Anil Kumar Bassi is also a member of Shiam CGHS (Membership No.217). The aforesaid membership records have been verified by AR(South) and AR(West) of this Department. Further, AR(South) also submitted a report regarding the Property No.T- 28, Green Park (Main) New Delhi-110018 stands assessed in the name of Sh. Anil Kumar Bassi s/o Shri Dharam Pal Bassi in their records for realization of property tax. Hence, the respondents Sh. Anil Kumar Bassi and Smt. Aparna Bassi incur disqualification as per rule 20(1)(c)(iii) of DCS Rules, 2007 and therefore, their membership may be ceased. Accordingly, SCN dated 29.04.2008 u/r 20 of DCS Rules, 2007 has been issued to the respondents for filing a reply.

Whereas, a reply has been filed by both the respondents wherein they submitted that:

Smt. Aparna Bassi submitted that she was a member of the Mount Everest CGHS in her own capacity, and she paid for the cost of flat out of her personal assets and income. She was owning commercial space in Connaught Place area and earning rental income therefrom.



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Copies of ITRs and receipt for payment of property tax of Connaught place have been filed. As such she was members of Mount Everest CGHS not as benami of someone but in her own right and out of her own funds.

As regard membership of Shiam CGHS, Smt. Aparna Bassi submitted that she become the member when the Petitioner was its Secretary and when she come to know that she cannot be member of more than one Society, She resigned from Shiam CGHS and got the refund of initial money during the tenure of the Petitioner itself. In fact, in the list of members of Shiam CGHS as filed by the Petitioner alongwith his Reference Petition, her name is not listed therein. Therefore, when she has resigned on her own, the SCN for ceasing the membership of her in Shiam CGHS has become infructuous.

Whereas, Sh. Anil Bassi submitted that he is a member of Shiam CGHS in his own right and paid towards the cost of flat out of his personal income and he is not binami of any other. He further submitted that before becoming member of Shiam CGHS he had already sold his Property No.T- 28, Green Park (Main) New Delhi-110018 to Smt Kamlesh Ralhan w/o Shri Parveen Ralhan on 11.08.1989 and photocopy of Agreement to Sell and other relevant documents as were prevalent for sale/ transfer of property have been filed. Therefore, new buyer not getting the property mutated in municipal records cannot led to assumption that seller continues to be the owner. It is therefore, apparent that he does not attract any disqualification for being member of Shiam CGHS.

The Complainant in his rejoinder has contended that Respondent No.1 had been member of Mount Everest CGHS Ltd; and Shiam C.GHS Lid. at one point of time, which has been proved by the verification done by Asstt. Registrar (S) and Asstt. Registrar (W) He, therefore, prayed that membership of Smit. Aparna Bassi of Mount Everest CGHS Ltd. and that of Shri Anil Kumar Bassi of Shiam CGHS Ltd, may be ceased

The respondents have filed another reply wherein they have further argued that this is not a case of "benami" membership and have cited judgments of Hon'ble High Court of Delhi in the undernoted cases: and Others Judgment dated 05.8.1991 in WP No.898/1989 in the matter of "O.P. Sethi Vs Lt. Governor and others it was held- "That we are of the considered view that Rule 25 (1)(c) is attracted in those cases where the properties are held benami. Having come to this conclusion there seems to be little difficulty in holding that the said Rule cannot apply in the cases where properties are acquired by transmission/devolution. We feel that Rules 25 and 35 of the said Rules have to be read in different contexts. The former takes care of the cases of acquisition of membership or its transfer and the latter the cases of transmission etc.

Judgment dated 10.07.1987 in CWP No.3150/1985 in the matter of "Navjeevan Co-operative House Building Society V/S Delhi Co-operative Tribunal and Others it was held-

"In my view the provisions of Rule 25 in so far as they disqualify persons from being members of the Co-operative society need to be strictly construed and unless any persons is squarely covered by the terminologies which are used to disqualify, no disqualification should attach to such person.



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"It is to be noticed that these rules do not impose a prohibition on persons who were 'Benami owners of the properties, which belonged to persons other than their wife or their dependent children. In other words, this rule would not cover the case of a person who held property 'Benami in the name of his children who were not dependent upon him or his spouse who was not dependent on him, or who held property "Benami for other person

Judgment dated 29.02.1996 in CWP 5551 of 1993 in the matter of Sh. Alimuddin Vis Registrar, Co-operative Societies and Others it was held

"The view taken by this Court has been that to attract the applicability of Rule 25(1)(c), the member of the society must own a residential house in this own name or in the name of his spouse or a dependent child. The phrase "in the name of has been interpreted to mean the ownership must be of the member though it may stand benami in the name of the wife or a child

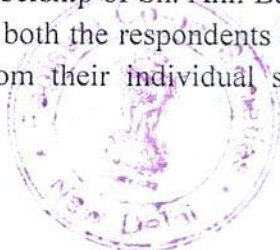
(vi) judgment dated 8.7.1996 in CWP No 1229 of 1992 in regard to "SK. Tandon Vis Registrar, Co-operative Societies and Others it was held that the rule 25(1)(c) is attracted only when the wife of a member had owned these properties benami and not in her own right Prerequisite to attract the disqualification was if a member had purchased property with his resources but used the name of his wife. Those properties which are purchased by wife with her own funds and are not held by her as Benami.

The office-bearer of the Shiam CGHS conceded that Smt Aparna Bassi is no more member of their Society, However, the society has not filed any written submission in this regard. The society further submitted that Sh. Anil Kumar Bassi(M. No. 217) is a member of the Shiam CGHS and his date of enrolment is 15.01.2003.

During the proceedings, the Hony. Secretary of the Shiam CGHS Ltd has brought to notice that Sh. Anil Kumar Bassi and Sh. Kamal Kumar Bassi are the partners of Ms. Kamal Construction, which was engaged for the construction work of the Society by Sh. Dinesh Kumar, the then Secretary (now the Complainant) during 2002-2006. He has further stated that the Society suffered heavy loss due to delay in construction of flats by the above contractors, who even left work incomplete and now filed a case in the Hon'ble High Court of Delhi for claims of around Rs.1.35 crores.

On going through the foregoing paras and documents on record, it is established that Smt. Aparna Bassi, Respondent No. 1 held membership in more than one Co-op. Group Housing Societies at one point of time, which is in violation of Rule 25(1)(c)(ii) of the DCS Rules, 1973 (corresponding Rule 20(1)(c)(ii) of the DCS Rules, 2007). However as she resigned from the membership of the Shiam CGHS and does not take any allotment of Flat in the said society. Hence, she does not incur any disqualification under Rule 25(1)(c)(ii) of the DCS Rules, 1973 (corresponding Rule 20(1)(c)(ii) of the DCS Rules, 2007).

Further, with regard to the membership of Sh. Anil Bassi in Shiam CGHS and of Smt. Aprna Bassi in Mount Everest CGHS, both the respondents have submitted that they have obtained the respective memberships from their individual source of income and have also filed



various documents and court orders to substantiate their claim. Therefore, I, Krishan Kumar, Registrar, Co-operative Societies, Govt. of NCT of Delhi, in exercise of the powers conferred on me u/r 20 of DCS Rules, 2007 hold that Smt. Arpana Bassi and Anil Kumar Bassi does not incur any disqualification u/r 20 of DCS Rules, 2007.

Ordered Accordingly.





21/09/2023
Krishan Kumar

Registrar Cooperative Societies

Copy to:

1. Mount Everest CGHS Ltd. Through its President/Secretary/Administrator, Plot No.17, Sector-9, Dwarka, New Delhi-110075
2. Shiam CGHS Ltd. Through its President/Secretary, Plot No. 5-D, Sector 11, Dwarka, New Delhi-110075.
3. Smt. Aparna Bassi and Sh. Anil Kumar Bassi, V-23, Green Park (Main), New Delhi-110016; Sh. Dinesh Kumar, Flat No. 273, Abhiyan Apartments, Plot No. 15, Sector-12, Dwarka, New Delhi-110075.
4. ARCS, Housing Section-4, O/o RCS
5. ARCS, Housing Section-7, O/o RCS
6. Inchareg Computer Cell


20/09/2023
Krishan Kumar

Registrar Cooperative Societies