

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

No.: F.No.: ARCS/SEC-1/GH/2155-58

Dated: 7/12/23

IN THE MATTER OF:

Dr. Namita Arora Khattar

.....Appellant

Versus

AGCR CHBS LTD.,
(through President/Secretary)


.....Respondent

ORDER UNDER SECTION 91 OF DCS ACT 2003

1. By this Order I shall dispose off the appeal dated 25.08.2023 filed by the appellant under section 91 of DCS Act 2003 against the non action of the respondent society in respect of application for transfer of membership submitted by the appellant.


BRIEF FACTS OF THE CASE:-

2. An appeal dated 25.08.2023 has been filed by the appellant Dr Namita Arora Khattar against the respondent society AGCR CHBS Ltd., The appellant has stated that she is wife of Shri B B Khattar and holder/owner of property no.: 21 AGCR Enclave, Delhi-10092. She acquired the property from her husband through instrument of Gift Deed registered no.: 6342 dated 23.11.2020, book no.: 1, volume no.: 2400, page nos.: 91 to 99 registered at Sub Registrar SR IV b, Delhi. The copy of the registered gift deed has been annexed with by the appellant with her appeal. Her husband Shri B B Khattar , s/o Late Sh. K C Khattar, acquired the property from his father through instrument of Will registered as document no.: 225 on 19.04.2017 with Sub Registrar VIII Delhi vide registration no.: 225, book no.: 3, volume no.:

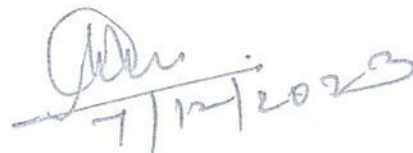

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1204 page nos.: 135 to 137. The copy of the registered Will has been annexed by the appellant with the appeal. Appellant's mother in law Smt Sushila Khattar purchased the property in question from Sh C L Uppal (original allottee) through registered documents. Copy of the conveyance deed registered on 03.05.2011 in favour of Sh C L Uppal has been annexed by the appellant with the appeal. The appellant states that she is now the owner of the property in question i.e. 21 AGCR Enclave and is entitled for the membership in AGCR Cooperative House Building Society Ltd., She has further submitted that inspite of submitting necessary papers for transfer of membership in her name to the society, the President/Secretary of the society are not transferring the membership in her name for the reasons best known to them.

3. Notice dated 26.09.2023 was issued for appearance on 06.10.2023 to the appellant and the respondent society. President and Secretary of the Respondent Society appeared on 06.10.2023. Arguments were heard on 06.10.2023 from both the parties.
4. The society rejected the application for membership vide their letter on ground that Sh K C Khattar executed a family settlement between his two sons and two daughters superseding the will executed during 2017. Under this settlement Sh B B Khattar was given ground floor and basement of house no.: 21 and its first and 2nd floor to his younger son. He also paid cash to his wife Smt Namita Khattar during 2020. As the Will executed during 2017 stands superseded, his action to gift the entire H No.: 21 to his wife was invalid.
5. The society further stated in the letter that the appellant is insisting for supply of copy of family settlement under the section 139 of DCS Act 2003 and Rule 165 of DCS Rules 2007 and RTI Act. The society has stated in the letter that younger brother of Shri B B Khattar who supplied the society a copy of Family Settlement had clearly stated that it should not be supplied to any one. In view of this the society has advised Shri B B Khattar to obtain the same from members of the family.
6. The appellant has annexed a copy of cheque for Rs.650/- drawn on Punjab National Bank, Delhi as also copies of Affidavits.

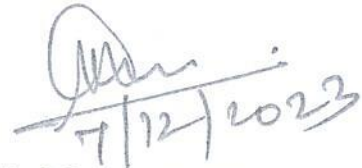

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7. The respondent society has not raised any objection as regards the qualification of the appellant to become a member of the society.
8. The respondent society did not produce copy of any family settlement which it is relying upon. The respondent society is also not providing a copy of the family settlement to the appellant even though the appellant is the directly effected party. This in itself creates a doubt on the genuineness of the family settlement as it is being kept secret. However, this court refrains itself from making comments on the validity of the family settlement in view of the fact that a copy of the same is not before the Court and nor it is within jurisdiction of this Court to adjudicate the validity of the family settlement.
9. However, all the conditions as required under the provisions of Section 91 of DCS Act 2003 are fulfilled in the present case as all the documents based on which the appellant is seeking transfer of membership are registered documents.
10. I am guided by Judgment of Hon'ble Supreme Court of India in the matter of Vimal Chand Ghevarchand Jain and others v. Ramakant Eknath Jadoo reported as (2009) 5 SCC 713 which has held that:- "*The registered sale deed is presumed to be valid unless the contrary is proved. The onus is on the person who challenges the same to show that it is either not acted upon or a sham transaction*"
11. I am further guided by Judgment of Hon'ble Supreme Court in the case of Prem Singh and others v. Birbal and others, (2006) 5 SCC 353 which has held that:- "*There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption.*"
12. I am further guided by Judgment of Hon'ble Supreme Court of India in the matter of Jamila Begum v. Shami Mohd. reported as (2019) 2 SCC 727 which has held that:- "*there is presumption in favour of a registered document.*"


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13. Nothing has been brought on record to show that the registered Will or the registered Gift Deed have been set aside or even challenged before any Competent Court of Law. This Court cannot go in the disputed question of fact regarding title of the property in question but has to base its judgment on the basis of registered documents produced before it in the absence of any order from any Competent Court of Law regarding the registered Will and the registered Gift Deed. Challenge/Objections to registered Will or registered Gift has to be before a Competent Court of Law and not in the present proceedings.
14. Transfer of Membership cannot be refused by a society without sufficient cause. The society does not have an unfettered right to admit, deny or refuse transfer of membership.
15. In view of the above, the respondent society is directed to transfer membership in the name of the appellant Dr Namita Arora Khattar i.r.o. Plot no.: 21, AGCR Enclave, AGCR CHBS Ltd., within 10 days from the date of receipt of this order.

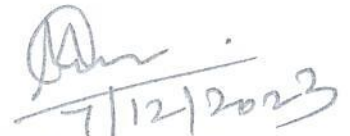
It is ordered accordingly.



(Dr. T Philip Thanglienmang)
Special Registrar Cooperative Societies

Copy to:

1. Dr Namita Arora Khattar, Plot No.: 21 AGCR Enclave, AGCR CHBS Ltd., I P Extension-II, Delhi-110092
2. AGCR CHBS Ltd., (through President/Secretary), AGCR Enclave, I.P.Extension-II, Delhi-110092
3. AR(Section-1)
4. In-charge (Computer Cell) for uploading on website



Dr. T Philip Thanglienmang)
Special Registrar Cooperative Societies