

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.: 47/1334/GGH/SEC-8/2023/2159-62 Dated: 07/12/23
CD No.: 107723992

IN THE MATTER OF:

Amitesh Tyagi & Urvashi Tyagi

.....Appellants

Versus

Vikram Nagar CGHS Ltd.,
(through President/Secretary)


.....Respondent

220/AM/IT
19/12/23
ORDER UNDER SECTION 91 OF DCS ACT 2003

1. By this Order I shall dispose off the appeal dated 22.08.2022 under section 91 of DCS Act 2003 filed by the appellants against the respondent society for non response by the society in respect of application for transfer of membership submitted by the appellants on 27.06.2022.

BRIEF FACTS OF THE CASE:-


2. An appeal dated 22.08.2022 was filed by Sh Amitesh Tyagi and Smt Urvashi Tyagi against the respondent society Vikram Nagar CGHS Ltd., The appellants have stated that they submitted application for transfer of membership to the society on 27.06.2022. The appellants sent reminders dated 24.07.2022, 01.08.2022 and 09.08.2022 but did not receive any response from the respondent society. The appellants annexed requisite documents including affidavit, Form 20 and Form 18 and copy of registered Gift Deed registered vide registration no.:


7/12/2023

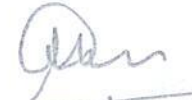
6596 in Book No.: 1 Volume No.: 11491 on page nos.: 83 to 91 registered on 13.06.2022.

3. Notices dated 15.02.2023, 28.02.2023, 26.04.2023 and 29.05.2023 were issued for appearances on 24.02.2023, 10.03.2023, 04.05.2023 and 09.06.2023. Notice dated 20.06.2023 was issued directing the society to submit any other/further reply in addition to the reply submitted by it on 09.06.2023 within 7 days of the receipt of the notice.
4. Inadvertently, an appeal also filed by Sh Virender Tyagi and Smt Suchitra Tyagi regarding transfer of membership in favour of the appellants Sh Amitesh Tyagi and Smt Urvashi Tyagi was forwarded to the society vide notice dated 15.02.2023. Sh Amitesh Tyagi is son of Sh Virender Tyagi and Smt Suchitra Tyagi and Smt Urvashi Tyagi is wife of Sh Amitesh Tyagi.
5. On various letters sent by the Office of Registrar Cooperative Societies to the society, regarding representations sent by Sh Amitesh Tyagi, the society vide reply dated 18.10.2022 submitted that the appellant is a habitual litigant, habitual defaulter, habitual nuisance creator, has indulged in illegal construction and that there are many legal claimants of the flat in question sought directions from this Office.
6. The respondent society in response to the appeal filed by Sh Virender Tyagi and Smt Suchitra Tyagi submitted a reply on 09.06.2023 stating that present appeal filed under section 91 of DCS Act 2003 is not maintainable as it has been filed by Sh Virender Tyagi and Smt Suchitra Tyagi who have ceased to be members of the society by virtue of registered gift deed executed by them. Further transfer by way of registered gift deed is not covered under the provisions of section 91 of DCS Act 2003,. The respondent society has stated that appellant Sh Virender Tyagi and his son Sh Amitesh Tyagi are indulged in anti-society activities which are detrimental to the interest of the society. The details of such acts stated by the society are as under:-

- i. Illegal encroachment of common area.

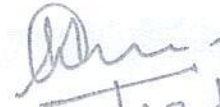

7/12/2023

- ii. Fitting of unapproved design grill from outside vendor posing a risk and threat to the life of members.
 - iii. Using abusive, threatening and foul language on official Whatsapp Group of the society against the MC members.
 - iv. Disrupting the meetings of MC by entering in society's office.
 - v. Getting common area work done by private contractor not adhering to the laid down work as proposed by tender.
 - vi. A chronic and willful defaulter presently to the tune of Rs.2,35,000/- plus interest.
 - vii. A resolution has been passed by MC to take action as per DCS Act as he is indulged in acts detrimental to the interest of society.
 - viii. He is in collusion with the previous society contractor and has been posting hos notices and in constant touch without any authority, who is indulged in forgery, fraud and evasion of tax.
7. Vide Notice dated 20.06.2023, a copy of appeal dated 22.08.2022 filed by Sh Amitesh Tyagi and Smt Urvashi Tyagi was sent to the society directing the society to submit any other/further reply in addition to the reply submitted by it on 09.06.2023 within 7 days of the receipt of the notice and that no further opportunity will be given to the society for filing reply.
8. The society has not filed any other/further reply pursuant to notice dated 20.06.2023.
9. Arguments were heard on 09.06.2023 from both the sides.
10. The society has not pointed out any disqualification qua the appellants namely Sh Amitesh Tyagi and Smt Urvashi Tyagi as per the provisions of DCS Act 2003, DCS Rules 2007 and Society's Bye-Laws. The society has relied upon extraneous factors for not transferring membership in their names.


7/12/2023

11. Membership in a society is liable to be transferred on the basis of a registered gift deed.
12. Society has not produced any evidence in support of its contention that the appellants are defaulters. Even otherwise, the case in hand is not a third party transfer but a transfer amongst family members based on a valid legal document. If the contention of the society is correct, they are at liberty to initiate recovery proceedings against the appellants as per the provisions of DCS Act 2003 and DCS Rules 2007.
13. Moreover, membership cannot be denied on the ground of alleged unauthorized construction. Transfer of Membership cannot be refused without sufficient cause. The society does not have an unfettered right to admit, deny or refuse transfer of membership.
14. In view of the above, the respondent society is directed to transfer membership in the name of the appellants within 10 days from the date of receipt of this order.


It is ordered accordingly.


7/12/2023

(Dr. T Philip Thanglienmang)
Special Registrar Cooperative Societies

Copy to:

1. Sh Amitesh Tyagi & Smt Urvashi Tyagi, B-202 Vikram Nagar CGHS Ltd., Plot No.: 14, Sector-12, Dwarka, New Delhi-110078
2. Vikram Nagar CGHS Ltd., (through President/Secretary), Plot No.: 14, Sector-12, Dwarka, New Delhi-110078
3. AR(Section-8)
4. In-charge (Computer Cell) for uploading on website


7/12/2023

Dr. T Philip Thanglienmang)
Special Registrar Cooperative Societies