

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.: 1070/GH/AR/SEC-4/2023/2183-86 Dated: 15/12/23
CD No.: 107741683

IN THE MATTER OF:

Abhisar Saini & Savita Saini

.....Appellants

Versus

Manokamna CGHS Ltd.,
(through President/Secretary)

.....Respondent

ORDER UNDER SECTION 91 OF DCS ACT 2003

- 27/AR/KT
15/12/23
1. By this Order I shall dispose off the appeal dated 07.08.2023 under section 91 of DCS Act 2003 filed by the appellants against the respondent society for its refusal to transfer membership in favour of the appellants.

BRIEF FACTS OF THE CASE:-

2. An appeal dated 07.08.2023 has been filed by the appellants Abhisar Saini and Savita Saini against the respondent society Manokamna CGHS Ltd., The appellant has stated that it purchased flat no.: B 1002 on payment of consideration from Shri Shashank Aggarwal and Smt neha Aggarwal who were the original allottee of the flat in question by virtue of a registered Sale Deed registered on 12.04.2019 vide registration no.: 7860 in Book No.: 1 Volume 4260 on page nos. 28 to 38, copy of which was provided to the respondent society. A No Dues Certificate dated 07.08.2018 was issued to the original allottee of the flat in question. Another No Dues Certificate dated 25.03.2019 was


[Signature]
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issued by the respondent society, Copies of both the No Dues Certificates have been annexed with the appeal. On 16.12.2021 the appellant submitted the application for transfer of membership in the said flat. On 21.03.2022 the respondent society through its President raised a demand of Rs.2,67,641/- against the appellants.

3. Vide reply dated 28.03.2022 to the appellants, the respondent society stated that share certificate bearing number 197 is a duplicate issued in year 2016 without the signatures of the then President and the membership number is no where mentioned on it. Sh Shailender Gupta Administrator did not hand over the photocopy /counter foil of share money receipt and share certificate for membership number 135. The society requested the appellants to clear dues of Rs.2,67,641/-. The society stated that the application for membership has been put on hold till complete record is handed over by the Ex-Management for which hearing is going on in the Office of RCS since 04.03.2022.
4. The appellants submitted a complaint dated 28.03.2022 to the RCS stating that recently six new members namely Ram Singh Chauhan (B-602), Renu (A-601), Sanghmitra (A-502), Abhishek Tanwar (A-104), Suman Tanwar (B-104) and Mega Banga (B-101).
5. The respondent society vide another reply dated 28.04.2022 stated that management committee of the society is working as per comments of the auditor in audit report of year 2019-2020, at page no.: 20 other comments para-a reads as under:-

“Balance of all members as well as all the outside parties as such shown on the close of the year i.e. 31.03.2020 are subjects to the respective confirmation and reconcilliation’s too, if necessitated.”


Page number 19, part C point 5 reads as under:-


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"The society is advised to collect the dues from the members along with interest and necessary action should be initiated against the defaulter member of the society."

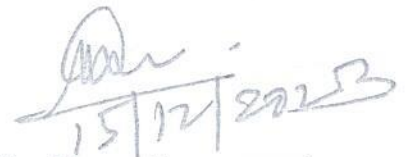
The society requested the appellants to clear dues of Rs.2,67,241/-

6. An unsigned details of Rs.2,67,641/- has been filed by the appellants purportedly issued by the society. The entire outstanding demand is shown to be prior to 12.01.2017.
7. Notices dated 13/09/2023 and 26.09.2023 were issued of hearings held on 21.09.2023 and 06.10.2023. Arguments were heard from the appellants and the respondent society on 06.10.2023.
8. Appellants have purchased the flat in question by virtue of a registered sale deed. Conditions mandated under section 91 of DCS Act 2003 stand fulfilled in this case. Further there is force in the argument of the appellants that after No Dues Certificates dated 07.08.2018 and 25.03.2019 issued by the respondent society clearly stating that all dues towards the land and construction cost of the flat of the society have been paid and there are No Dues pending as on 07.08.2018 and 25.03.2019 against the flat in question, the demand raised by the society pertaining to period prior to 12.01.2017 is frivolous just to deny membership to the appellants.
9. Further there is no substance in the argument of the society that membership is put on hold till entire records are handed over by the Ex Management. Reliance of the respondent society on extracts of the audit report are baseless.
10. The society has not been able to explain as to how the dues are pending against the appellants when No Dues Certificates dated 07.08.2018 and 25.03.2019 have been issued by the respondent society itself.
11. All the arguments of the respondent society for refusal to grant membership to the appellants are rejected being legally untenable.


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12. No disqualification has been pointed out by the respondent society qua the appellants for their becoming members of the society.
13. 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.
14. In view of the above, the respondent society is directed to transfer membership in the joint name of the appellants Abhisar Saini and Savita Saini i.r.o. flat no.: B-1002 in the respondent society within 10 days from the date of receipt of this order. The respondent society is however at liberty to initiate recovery proceedings against the appellants as per the provisions of DCS Act 2003 and DCS Rules 2007, for dues, if any, against them after grant of membership to them.

It is ordered accordingly.



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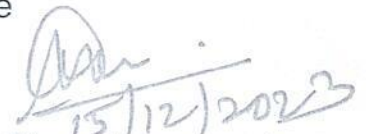
(Dr. T Philip Thanglienmang)
Special Registrar Cooperative Societies

Copy to:

1. Sh Abhisar Saini & Smt Savita Saini, Flat No.: B-1002, Manokamna CGHS Ltd., Plot No.: 16, Sector-18A, Dwarka, New Delhi-110078
2. Manokamna CGHS Ltd., (through President/Secretary), Plot No.: 16, Sector-18A, Dwarka, New Delhi-110078

~~3. AR(Section-4)~~

✓ 4. In-charge (Computer Cell) for uploading on website



15/12/2023

Dr. T Philip Thanglienmang)
Special Registrar Cooperative Societies