

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

F.No. Review115/Coop./AR/Sec-6/RCS/2024/59 -61

Dated: 20/2/24

Order

Whereas, a review application has been filed by Ms. Astha Joshi & Ankit Gupta, Advocates on behalf of Sleuth CGHS Ltd. u/s 115 of DCS Act, 2003 for review of the order of the RCS dated 27.07.2023 passed u/s 41 of DCS Act, 2003.

The RCS vide its order dated 27.07.2023 has ordered as under:

“Since the respondent No.1, 2 and 3 have been completely exonerated from the charges leveled against them by special Judge, CBI vide order dated 24.11.2022 acquitting them from allegations made against them in the charge-sheet. Hence, the names of respondent No.1 and 2 and 3 can also no longer be detained for not allotting the flats to them and also in view of the fact that the application filed by society Under Section 41 of the DCS Act, 2003 for cessation of the membership of respondents has been found as not maintainable in law and not supported by any evidence as discussed in present order. Therefore, the names of respondents for allotment of the flats applied by them with the society can no longer be detained for the given reasons in report.

The respondents were enrolled as member of petitioner society in 2002-03, when DCS Act, 1972 and DCS Rules, 1973 were in existence whose provisions continues to be applied to them by virtue of section 141 of DCS Act, 2003 for clearance of their membership for allotment of the flats under the then existing Act and rules.

Keeping in view the peculiar facts of the present case, I hereby direct to forward names of the respondents to the DDA for holding draw of lots for allotment of their applied flats, as they were enrolled under DCS Act, 1972 & DCS Rules, 1973. It is ordered accordingly.”

The petitioner society submitted that the applicant/petitioner absence on the date of hearing was not due to any deliberate or careless behaviour, but rather for the genuine reasons i.e. the affairs of the society were being managed by the Administrator of the society and the M.C. was appointed on 05.11.2023. It is only thereafter; the new MC could have taken the cognizance of the matter and could have appeared.

The petitioner society further submitted that there are many judgements passed by the Hon'ble Supreme Court wherein it has been clearly held that “it is



imperative that a fair opportunity of hearing is given to the persons whose rights are affected. This requires that the interested person is given an effective opportunity to put forth his or her claim."

There are various rulings that cover the issue of review and cast boundary conditions in the scope of review are as below:-

The Hon'ble Supreme Court in the judgement in Case titled as "Inderchand Jain V. Motilal" has opined that-

"It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law. Review is not appeal in disguise."

The Hon'ble Supreme Court in the judgement titled as "Lily Thomas V. Union of India" (AIR 2000 SC 1650) has held-

"56. It follows, therefore, that the power of review can be exercised for correction of a mistake and not to substitute a view. Such powers can be exercised within the limits of a statute dealing with the exercise of power. The review cannot be treated an appeal in disguise."

The Hon'ble Supreme Court in Northern India Carterers (India) V. Lt. Governor of Delhi (1979) was held that-

"A party is not entitled to seek a review of a judgement delivered by this court merely for the purpose of a rehearing and a fresh decision in the case. Normally the principle is that a judgement pronounced by the court is final and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so..."

I have gone through the application filed for review, and the respective order doesn't satisfy any of conditions laid down in the first proviso of section 115(1) of DCS Act, 2003.

The power of review is very limited and the court does not rehear the case at hand. The purpose of a review petition is limited to remedying an apparent error or for correction of a mistake. Clearly the scope of review does not allow any court to sit on judgement over its own orders. In the present case there is no averment in the review application that there has been the discovery on new important matter of evidence, which after the exercise of due diligence wasn't within the knowledge of the applicant or couldn't be produced by applicant at the time before the order under challenge was passed nor there is any mistake neither error apparent in it. Further, the reasons mentioned in application isn't sufficient,



which otherwise is time-barred as filed 30 days after passing of the order under challenge, which are sufficient to hold the review application as not maintainable whose remedy is provided under the Act has to be availed if permissible in law. Needless to mention that in supporting affidavit there is no mention about authority of persons filing them by any specific resolution of committee of applicants.

In view of the same the review petition filed by Sleuth CGHS Ltd. is dismissed.



Anil Kumar Singh
15/2/24
Anil Kumar Singh
Registrar Cooperative Societies

To,

1. President/Secretary, Sleuth CGHS Ltd., Sector-9, Dwarka, Delhi-110075.
2. Astha Joshi & Ankit Joshi, Advocates, C-83, 2nd Floor, South City-2, Sector-49, Gurgaon-122018, Haryana.
3. ARCS, Housing Section-7, O/o RCS.