

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

F.No.GH/SEC-2/RCS/Court/2023/u/s 86/155-160  
C.D No. 107754104

Dated: 21/2/24

Order

In the matter of:-

Delhi Union Cooperative House Building Society Ltd.  
(Through Hon. Secretary)

..... Petitioner

**VERSUS**

Sh. Sushil Kumar Aggarwal  
Smt. Bimla Devi  
Sh. Rajeev Aggarwal

.....Respondent

This order shall dispose of the proceedings initiated vide notice under section 86 of DCS Act, 2003 on the proposal of the society dated 29.08.2023 for approval of expulsion of Sh. Shushil Kumar Aggarwal, Smt. Bimla Devi & Sh. Rajeev Aggarwal (Joint Membership No. 127 ), member of Delhi Union cooperative House Building Society Ltd.

Whereas, an application dated 29.08.2023 has been filed by the Secretary of the society regarding proposal for approval of expulsion of Sh. Shushil Kumar Aggarwal, Smt. Bimla Devi & Sh. Rajeev Aggarwal (Joint Membership No. 127), member of Delhi Union cooperative House Building Society Ltd.

The society submitted that:

1. The Managing Committee of the Society in its meeting held on 01/05/2023 has unanimously Approved to issue first notice for expulsion of Membership No-127 favouring Sh. Sushil Kumar Agarwal, Smt Bimla Devi and Sh. Rajeev Agarwal-Joint Membership all R/o. 26. Kapil Vihar, Pitampura, Delhi-110034 with detail of grounds U/S 86 (1) of DCS Act 2003 and the first notice was dispatched on 01/05/2023 to the members.
2. Further, two more notices dated 05.06.2023 and 08.07.2023 has been issued to the respondents as per the prescribed procedure under rule 99 of DCS Rules, 2007. Further, the society has given public notices in two newspapers, one is English Newspaper "The Pioneer dated 15/08/2023 on page No.2 and the second is Hindi Newspaper "Pioneer" dated 15/08/2023 on page no. 10 to membership No.127 favoring Sh. Sushil Kumar Agarwal, Smt. Bimla Devi and Sh. Rajeev Agarwal (Joint Membership). The Society has given last and final opportunity to the above-mentioned members through this public notice in the newspapers to appear themselves or through their authorized representative before the Managing Committee meeting to be held on 08/08/2023 at 8 A.M. In the Society office to explain their case failing which the Society will forward the case to the Registrar





of the Cooperative Societies for approval of expulsion of membership as per DCS Act And rules.

3. Thereafter Managing committee of the Society in its meeting held on 19/08/2023 considered the reply received from the member Sh. Sushil Kumar Agarwal dated 17/05/2023 and dated 03/07/2023 in this matter which is not satisfactory and the Managing Committee unanimously passed the resolution for expulsion of membership No-127 favoring Sh. Sushil Kumar Agarwal, Smt. Bimla Devi and Sh. Rajeev Agarwal (Joint Membership) Under Section 86 (1) of DCS Act 2003 read with rule 99 of DCS Rule 2007 and then refer this passed resolution to the RCS Court for approval.

The grounds for expulsion of Respondents:-

1. That a Reminder dated 01/04/2023 was issued, requesting respondent to deposit the amount of Rs.24,465/-and Interest @10% per annum w.e.f. 23/04/2022. The Reminder is clear that Non-Payment of dues/Demand/ Default Amount up to 08/04/2023 will attract legal action against you by Managing Committee.
2. That in Previous committee, respondent is looking after day to day working of the Society. The bills under PPP Scheme for maintenance of four Parks of the Society was not Submitted for reimbursement of expenses to the North Delhi Municipal Corporation, Horticulture Department, Keshav Puram Zone, Delhi. The bill Belongs to the Period of 01/04/2020 to 31/03/2022 and the approx. total amount of Bill is Rs. 8,52,480/-. Now the Society is facing huge shortage of funds due to his inaction and not submitting society bills to MCD, Horticulture Department. The Managing Committee held respondent responsible for his inaction and thus causing financial hardship to Society.
3. The Agenda for election of the Managing Committee was issued on 01/04/2022 by the Election officer of the Society. On 03/04/2022, respondent had authorized Resident welfare Association (RWA) Kapil Vihar to use all three Main Gates of Delhi union Co-operative Hous Building Society Ltd, Kapil Vihar to put Commercial Hoarding/Advertisement. This is punishable offence under DCS Act 2003. The RWA Kapil Vihar misused all three main gates of Delhi Union Co-operative House Building Society Ltd (DUCHBS Ltd) for advertisement etc. It is also a financial loss to DUCHBS Ltd. It is relevant to mention that you are President of RWA, Kapil Vihar, Pitampura, Delhi and responsible for same.
4. The managing committee found that from 12-01-2020 to 24-04-2022, respondent is the President and Presiding officer of all the managing committee meetings of this period, we found that the many of the managing committee meeting including dated 14-01-2020 shall not be considered legally valid and can be considered as not held, the reason is that the minutes of these managing committee meetings are typed (ie, not hand written) whereas only hand written minutes are allowed in the managing committees meetings. For this please refer rule 60 (4) of DCS rules 2007. Therefore, expenses approved and passed in these managing committee meetings can be recovered from the presiding officer i.e., Sh. Sushil Kumar Aggarwal, hence respondent is responsible for this act, as against the interest and proper working of the society.





5. That as per available record of the society, the minutes recorded of the AGM dated 15.09.2019 in the AGM book/register of the society proves that hand written AGM minutes was recorded and the writing appears to be of Sh. Sushil Kumar Agarwal but after that typed minutes of the AGM of the same date signed by as President and as Presiding officer was pasted on the hand written AGM of the same dated. This act is detrimental to the interest of the Cooperative society.
6. That a demand letter dated 08-10-2021 issued by the Sh. Sushil Aggarwal, Ex-President respondent herein to the owner c/o. Sh. Amit Jain, 20 Kapil Vihar Pitampura Delhi 110034, for outstanding dues of the society in respect of plot no 20 Kapil Vihar. The said letter states that the dues are outstanding in respect of plot no 20 Kapil Vihar and payable a total amount of Rs. 4,89,694/-. The managing committee saw the managing committee meetings of the same period and does not find any M.C. meetings in which this demand letter/notice or demand against the plot no 20 Kapil Vihar Pitampura was discussed or decided to issue such letter/notice to Owner, c/o. Sh. Amit Jain 20, Kapil Vihar Pitampura.

Whereas, Sh. Sushil Kumar Aggarwal filed reply to alleged grounds of expulsion as alleged by the society wherein he submitted that:

1. The alleged demand of Rs.24,465/- was raised by the society towards recovering the alleged litigation expenses incurred by the society from the parties, which was specifically and vehemently disputed by the respondent firstly by his reply dated 06.03.2023 through his counsel and then by filing an arbitration case No.17/GH/DR/ARB/2023-24, which has already been admitted by the Dy. Registrar and referred for arbitration after being satisfied with the claim petition that the same is fit for admission u/s 70 of the Act and for adjudication u/s 71 of the Act. It is pertinent to mention here that similar demands have been raised by the present MC against other members also but expulsion notices have been issued only against the respondent
2. It is denied that it was the duty /responsibility of the respondent as President to submit the Bills of Horticulture in the Department. It is submitted that as per the settled practice being followed in the society, it was the responsibility of the secretary of the society to submit the horticulture bills with the Horticulture Department, MCD. So far as the Bills pertaining to 01.04.2020 to 31.03.2022 are concerned, it is vehemently denied that the same amounting to Rs.8,52,480/-. In fact, no expenses worth Rs.8,52,480/- were incurred during the above period by the society on horticulture items and therefore many bills submitted by the present Secretary, without the knowledge, and consent of the respondent, Sushil Kumar Agarwal who is the President of the society, pertaining to above mentioned period are forged and fabricated. It is submitted that during 1.4.2020 to 31.03.2022, due to Covid-19 pandemic, the society had incurred much less expenses on maintenance of parks, but the present secretary fraudulently claimed reimbursement of maximum amount from the Horticulture Department on the basis of forged and fabricated bills. When the Horticulture Department, MCD examined those bills, they seriously doubted the authenticity of the said bills and vide letters dt.28.04.2023 and





23.06.2023 informed the Dy. Commissioner, MCD and Director Horticulture respectively about those false and fabricated bills. The Horticulture Department vide letters dt.22.03.2023 and 25.05.2023 sought explanation from the society, which the present Secretary and Vice-President are unable to give to the Department and since the matter of false and incorrect Horticulture Bills is still under investigation, the Horticulture Department MCD has stopped the payment of all Bills of the above-said period. Now, how can respondent be held responsible for the same. It is those members of the present MC who submitted forged and fabricated bills in the Horticulture Department, they are responsible for non-reimbursement or delay in payment of valid bills, if any, submitted by the officials of the present MC.

3. It is submitted that the Residents' Welfare Association, Kapil Vihar, Pitampura, Delhi (in short RWA Kapil Vihar) is a registered society duly registered under the provisions of Society Registration Act with the Registrar of Firms and Societies. The affairs of the RWA Kapil Vihar are also governed by its Executive Committee collectively as being done by the Managing Committee in Coop. Society case.

It is therefore specifically denied that the respondent, Sushil Kumar Agarwal who is also President of the RWA Kapil Vihar taken any decision in his personal capacity or authorised anybody as alleged in the Ground No.3 by the petitioner society. In fact, the residents of the Kapil Vihar had constructed three main gates in the society from their own funds, on which the sign boards of the RWA Kapil Vihar had been put up for quite long time. It is submitted that the petitioner society has no ownership over the said Main Gates nor has ever raised any objection to the installation or use of the said main gates by the RWA Kapil Vihar. Rather the Managing Committee of the petitioner society in its meeting held on 03.04.2022 had discussed the matter and gave no objection to the RWA Kapil Vihar for putting its hoardings, sign boards/ banners etc. on these three iron gates of the colony. In the same MC meeting the society had admitted that it had no ownership over the main gates. Thus, the petitioner society has no locus or authority to raise any ground / grievance in regard of those three gates as it has no ownership rights over the said Gates.

4. It is submitted that it is well settled law, as repeatedly held by the Hon'ble Supreme Court that that rules merely provides procedure which cannot be consider mandatory as the rules are always subservient to and is in aid of justice. It is submitted that no one has ever challenged the legality of the MC meetings held during 12.01.2020 to 24.04.2022, let alone setting aside of the same by any competent court of law and thus the same still stand legal, valid and binding even as on date. Even petitioner society has admitted the above position. It is pertinent to mention here that some of the present MC members were also part of the said MC minutes, then how can they seek expulsion of the respondents herein.
5. No reason whatsoever has been given as to why pasting of typed minutes of AGM dt.15.9.2019 is detrimental to the interest of the petitioner society. However, this clearly proves the high level of malice and hatred on the part of some of the MC members against the respondent in dragging him into these flurry false, frivolous and vexatious litigations.





6. That, raising a demand of dues against a member cannot by any stretch of imagination be treated as any act against the interest of the society. In fact this is not even the case of the society in its alleged proposal and therefore society cannot legally seek expulsion of the respondents on this alleged ground.

I have reviewed the submissions made by both the society and the respondent. It is noted that regarding the society's claim of a demand for Rs. 24,465, the respondent claims that the matter is under arbitration and similar demands have been raised by the present MC against other members, yet expulsion notices have been issued only against the respondent. The court is of the opinion that as the matter is currently sub-judice, it would be premature to take action based on this allegation.

Further, concerning the Bills for Reimbursement, the respondents argue that this was not his responsibility and it is the duty of the Secretary of the society. He further argues that some bills were submitted fraudulently by the current secretary. On the same issue, the court is of the opinion that this is an internal issue within the society rather than deliberate misconduct by the respondents. The society should have pursued other legal measures available in law rather than resorting to expulsion.

Regarding the Unauthorized Use of Society Gates for Advertisement, the respondents deny their involvement and contest the society's ownership over the gates. On this issue, the court feels that there is a disagreement over property rights, and the society should have resolved this issue before resorting to expulsion.

Furthermore, with regard to the Validity of Committee Meetings Chaired by the Respondent, the respondents argue that decisions made in these meetings are legally binding and valid. If the meetings were conducted according to the society's bylaws, their decisions should indeed be considered valid. The court is of the opinion that since these minutes were signed by other members of the MC as well, the respondent alone cannot be held responsible for them. Moreover, the society has not produced any evidence of whether any loss to the society has been caused by the respondent making such entries in the minute register.

Regarding the allegation of the society regarding Minutes of an AGM, the respondents argue that pasting typed minutes does not harm the society's interests. The court is of the opinion that since these minutes were signed by other members of the MC as well, the respondent alone cannot be held responsible for them and there appears to be a difference in opinion regarding proper documentation procedures rather than deliberate harm to the society.

Further, concerning raising Dues against a Member, the respondents argue that this action does not harm the society's interests. The court is of the opinion that raising dues is within the authority of the society and is done for legitimate reasons; it cannot be considered as grounds for expulsion.



Based on the above analysis, it's reasonable to conclude that the society's grounds for expulsion are not sufficiently supported by evidence. In view of the above, I am satisfied that none of the allegations made against the respondents falls within the ambit of section 86(1) of DCS Act, 2003. Therefore, the expulsion proposal of the society is rejected, and the respondent's membership remains unaffected. It's advisable for the society to address any internal issues and disputes through proper channels and in accordance with the Law.



*Anil Kumar Singh*  
Anil Kumar Singh

Registrar Cooperative Societies

Sent To:-

1. Sh. Sushil Kumar Agarwal, O/o Late Sh. Babu Lal Agarwal,
2. Smt. Bimla Devi
3. Sh. Rajeev Agarwal, all R/o House No. 26, Kapil Vihar, Pitampura, Delhi-110034
4. President/Secretary, Delhi Union CHBS Ltd., 1<sup>st</sup> Floor, Satsang Bhawan  
Kapileshwar Mandir, Kapil Vihar, Pitampura, Delhi-110034
5. ARCS, Housing Section-2, O/o RCS
6. Incharge Computer Cell for uploading on the website of the Department