

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/ 2328-29
CD No.: 107741683

Dated: 28/2/24

IN THE MATTER OF:

Nitin Jain & Ritu Jain

.....Appellants

Versus

Mithila CGHS Ltd.,
(through President/Secretary)

.....Respondent

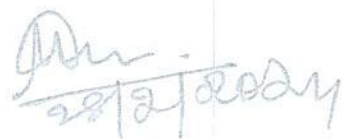
379/AR/IT
91/03/24

ORDER UNDER SECTION 91 OF DCS ACT 2003

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

BRIEF FACTS OF THE CASE:-

2. An appeal dated 01.06.2023 has been filed by the appellant Nitin Jain and Ritu Jain against the respondent society Mithila CGHS Ltd., The appellant has stated that it applied for membership with the society in March 2021 submitted all relevant documents necessary for transfer of membership by the society. The appellant has stated that he was verbally told in AGBM held in the society on 13.02.2022 that the reason for non transfer of membership is unauthorized structure on the common terrace. The appellant has stated that this structure was not constructed by him and neither it belongs to him nor does he uses it. The appellant has further given a NOC to the society to do whatever it


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wished to do with the structure and can even demolish it at the cost and expense of the society. Copy of NOC given by the appellant has also been annexed with the appeal. The appellant has annexed a copy of registered conveyance deed registered on 27.07.2004. he has purchased the flat in question by virtue of a registered sale deed registered on 23.01.2006.

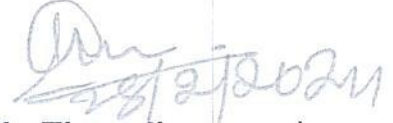
3. Notices dated 24.08.2023 and 14.09.2023 were issued for appearances on 08.09.2023 and 05.10.2023. Arguments were heard on 05.10.2023 from both the parties.
4. The society did not raise any objection as regards the documents submitted by the appellant for transfer of membership in their favour. The only issue raised by the society was with regards to the unauthorized structure existing on the roof top of the flat. On the other hand the appellants submitted that they have purchased the flat in question through a registered sale deed and have submitted all requisite documents for transfer of membership in their favour. As regards the illegal structure existing on the roof top, it was submitted by the appellant that the structure did not belong to him and that he has already given a NOC to the Society to deal with it in any manner as it wished and can even demolish it at its expense. Further a resolution has already been passed in the AGBM held in the society on 13.02.2022 that Managing Committee shall take appropriate action on removal of unauthorized construction over flat no.: 169 and that expense of demolishing the same shall be borne by the society.
5. All the conditions as required under the provisions of Section 91 of DCS Act 2003 are fulfilled in the present case.
6. I am in agreement with the argument of the appellant that membership cannot be denied on the ground of alleged unauthorized construction and that too which does not belong to them. The appellants have also given a NOC to the society that the society can do whatever it wants to do with the illegal structure and can even demolish at the same at its expense. No other disqualification has been pointed out by the respondent society qua the appellants for their becoming a member

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of the society. 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.

7. 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.

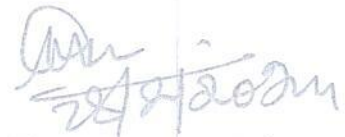
It is ordered accordingly.



(Dr. T Philip Thanglienmang)
Special Registrar Cooperative Societies

Copy to:

1. Sh Nitin Jain & Smt Ritu Jain, Flat No.: 169 Mithila Apartment, Mithila CGHS Ltd., Plot No.: 76, I.P.Extension, Patparganj, Delhi-110092
2. Mithila CGHS Ltd., Plot No.: 76, I.P.Extension, Patparganj, Delhi-110092
3. AR(Section-4)
- ✓ 4. In-charge (Computer Cell) for uploading on website



Dr. T Philip Thanglienmang)
Special Registrar Cooperative Societies