

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

F.No.47/1151/GH/Sec-7/Coop./2021/321-325

Dated: 18/3/24

ORDER

In the matter of Dual Membership of Sh. Suraj Mal DabasRespondent

This order shall dispose of the proceedings initiated vide Show Cause Notice dated 31.05.2021 u/s 41(3) of DCS Act 2003 read with rule 19 (ii) of DCS Rules 2007 whereby Sh Suraj Mal Dabas was called upon to explain as to why action for violation of Section 41(1) of (d) of DCS Act, 2003 read with Rule 19 (ii) of DCS Rules 2007 should not be taken against him and his membership of Shivani CGHS Ltd may not be ceased being violations of Section 41(1)(d) of DCS Act, 2003 read with Rule 19(ii) of DCS Rules, 2007.

Brief facts of the case are that the respondent, Sh Suraj Mal Dabas s/o Sh Bhim Singh was enrolled as a member in the Shivani CGHS Ltd on 15.05.2001 with membership No 163. It has been reported that Sh Suraj mal Dabas (M.S.No 163) s/o Sh Bhim Singh was also a member in Sunny Valley CGHS Ltd. As per available records, his date of enrolment in Sunny Valley CGHS is 11.08.1997 and his membership No in sunny Valley CGHS is 279. Further, in pursuance to the recommendation by the society Sh Suraj Mal Dabas s/o Sh Bhim singh was allotted flat in Sunny Valley CGHS Ltd in draw of lots conducted by DDA in the year 2004. Thus, in terms of DCS Act 2003 and Rules 2007 Sh Suraj Mal Dabas is liable to be disqualified u/s 41(1)(d) of DCS Act 2003 read with Rule 19(ii) and Rule 20 of DCS rules 2007 from the membership of Shivani CGHS Ltd as he had dual membership/property in his name and had given false declaration at the time of obtaining the membership of Shivani CGHS Ltd.

Further, Sh Suraj Mal Dabas has filed WP(C) No 2389/2021 titled Sh Suraj Mal Vs RCS & Ors inter-alia seeking direction from the Hon'ble High court of Delhi to direct the Respondent No 1/RCS to process and clear the membership of petitioner in accordance with Rule 90 of DCS Rule 2007 and to send his name to Respondent No 2/DDA for holding the draw of lots for the allotment of flats in the Respondent No 3/society within specified time period. In response, this office filed a short affidavit placing on record the



dm 18/3/24

abovementioned position and requested Hon'ble High Court to dispose of the said Writ petition.

In response to the abovementioned show cause notice dated 31.05.2021, Sh Suraj Mal Dabas submitted short reply dated 20.10.2022 through his advocate wherein the respondent stated that the said show cause notice is not maintainable as the case of the applicant was detained earlier on the ground that he was charge sheeted by the CEI and his name cannot be cleared till there is direction from the Court. The respondent further stated that no such disqualification was pointed out by the O/o RCS earlier when a Writ petition No 4025/2018 was filed by him in the Hon'ble High Court of Delhi and at no point of time, any issue of dual membership was ever raised or agitated by any of the authorities prior to filing of the present writ petition. The respondent further stated that the membership in Sunny Valley CGHS Ltd was for a flat in smaller size, whereas the respondent required a bigger size of flat. The respondent further stated that he had executed the Power of Attorney in favour of Ms Sushma in order to get the flat transferred in her name as and when the same was allotted. Thus, according to provisions of Section 87(a) of DCS Act 2003, the membership of respondent in Sunny Valley CGHS Ltd is deemed to have been ceased when he had executed the said Power of Attorney in favour of said Ms Sushma. However, as per records submitted by the Sunny Valley CGHS Ltd the respondent herein was allotted Flat No 301 vide possession letter as per draw of lots held on 28.03.2004.

The respondent has further stated that when he obtained the membership of Shivani CGHS Ltd the DCS Rules 1973 was applicable. A bare reading of Rule 25 (1)(C)(iii) of DCS Rules 1973 it is clear that the said Rule did not impose complete ban on double membership. The membership in another housing cooperative society was permissible with the consent of worthy RCS. It is submitted that the respondent had nominated his grand daughter Ms Preeti as his nominee and had subsequently applied for transfer of his membership in favour of his said nominee/grand daughter Ms Preeti. The said application was duly received in the office of Shivani CGHS Ltd and accordingly, the membership of respondent was transferred by the Shivani CGHS Ltd in favour of his said grand daughter. The request of the respondent for transferring his membership in favour of his said grand daughter Ms Preeti was approved and allowed by the Managing committee of Shivani CGHS Ltd vide their resolution passed in its meeting held on 26.12.2004. Even the society, i.e. Shivani CGHS Ltd issued a demand letter dated 02.11.2006 addressed to said Ms Preeti only. It may not be out of place to mention that the said resolution and



2. *AM 18/3/24*

information relating to transfer of membership of undersigned in favour of said Ms Preeti must have been sent to the O/o RCS and since, the demand notice was issued in favour of Ms Preeti as such, the necessary approval of worthy RCS is deemed to have been accorded in this regard. However, subsequently, the Shivani CGHS Ltd apprised the respondent in writing that his request for transfer of membership in favour of first degree blood relationship and thus, the same can be done only in favour of respondent was not the said membership was again transferred back in favour of respondent from said Ms Preeti by the society. Thus, it is clear that the respondent was not the members of the Shivani CGHS Ltd from 26.12.2004 till July 2007. However, since July 2007 the respondent is continuing as the member of the said society and the same is deemed to have been permitted by the O/o RCS as well as no objection in this regard was ever raised from the O/o RCS. It is also a case of de-novo contract between the respondent and Shivani CGHS Ltd and the same is deemed to have been approved/permitted by the O/o RCS by necessary implication.

The respondent further cited order dated 25.08.2009 passed by Hon'ble High Court in the matter of WP(C) No 5265/2008 titled as Sadbhavna CGHS Ltd Vs Salil Agarwal wherein Hon'ble High Court has held as under :

".....It is therefore, clear that even after the respondent had become major, his membership was continued for at least six years before which the action of cancellation was abruptly taken by the issuance of the letter dated 08.09.2005. It is not as if the membership was cancelled before he attained majority. His membership is sought to be cancelled six years after he attended majority and that too after payment had been accepted from him from time to time. At no earlier point of time, were his payments refunded or was it pointed out that the respondent was not eligible for membership. In any event, on the date his membership was sought to be cancelled, the respondent was no longer a minor."

The applicant further relied on order dated 11.11.2010 in WP(C) 321/2010 wherein Hon'ble High court has observed as under :

"4. The basic issue in the present case revolves around the issue as to whether the petitioner is disentitled to a flat because he was a minor on the date of enrolment. A related issue would be that could it not be said that there is a novation of contract and



a confirmation of membership of the petitioner on becoming major after four years of his enrolment as much as the respondent no 2 society demanded various amounts from the petitioner after he became a major and right up to the years 2002 to 2005 and which were duly paid by the petitioner."

Besides, the Vice President/Secretary of the Sunny Valley CGHS Ltd has forwarded the copy of Share certificate dated 21.07.1998 issued by the society in favour of Sh Suraj Mal Dabas, Possession letter dated Nil regarding handing over of flat No B3-301 to Sh Suraj Mal Dabas as well as conveyance deed dated 07.04.2006 executed by the DDA in favour of Sh Suraj Mal Dabas.

I have gone through the reply submitted the respondent Sh Suraj Mal Dabas as well as the copies of documents submitted by Vice President/Secretary of Sunny Valley CGHS Ltd as well as provisions contained in DCS Act & Rules. As per Rule 24 (1)(i) of DCS Rules 1973 which was applicable at time of enrolment of Sh Suraj Mal Dabas in Shivani CGHS Ltd clearly states that a person cannot be admitted as a member unless he has applied in writing in the form laid down by the co-operative society or in the form specified by the Registrar, if any, for membership along with a declaration on oath that he is not a member of any other co-operative society having similar objects. Thus, it appears that Sh Suraj Mal Dabas has obtained the membership of Shivani CGHS Ltd by concealing the facts i.e. that he was already a member of Sunny Valley CGHS Ltd while applying for the membership of Shivani CGHS Ltd.

Further, the claim of the respondent that he had executed a power of attorney in favour of Ms Sushma to get the flat transferred in her name as and when the same was allotted and thus, his membership in Sunny Valley CGHS Ltd is deemed to have ceased as per provision of 37 (a) of DCS Act 2003. The said claim of the respondent is devoid of merit as Flat No B3-301 was subsequently allotted to him in the Sunny Valley CGHS Ltd. Besides, the respondent has also stated to have applied for transfer of his membership in Shivani CGHS Ltd to his grand-daughter Ms Preeti which was stated to be refused by the society in the year 2007. The said request for transfer of membership was neither covered under the provision of DCS Act & Rules nor acceded by the society.

Besides, the advocate for the respondent has also quoted order dated 25.08.2009 passed by Hon'ble High Court in the matter of WP(C) No 5265/2008 titled as Sadbhavna CGHS vs Sali Agarwal and WP (C) No



Am 18/3/20

321/2010 wherein Hon'ble High Court has allowed the membership of the persons who were admittedly minors at the time of enrolment on the ground that complete payment was made by them after attaining the age of majority and their membership could not be withheld on this technical reason. However, in the present case the respondent has willfully concealed the fact that he was already a member of another Cooperative Group Housing Society while applying for membership in Shivani CGHS Ltd. Thus, the case law quoted by the respondent is not applicable in the present case of the respondent.

In view of abovementioned facts and circumstances I am of the considered opinion that the respondent Sh. Suraj Mal Dabas was not qualified to become the member of Shivani CGHS Ltd at the time of his enrolment in the said society and he has obtained the membership of another Cooperative Group Housing Society i.e. Sunny Valley CGHS Ltd, thus the enrolment of Sh. Suraj Mal Dabas in Shivani CGHS Ltd is hereby ceased u/s 41 (3) of DCS Act 2003 read with Rule 19(2) of DCS Rules 2007.

Ordered accordingly.



Amr 18/3/21
(A. K. SINGH)
REGISTRAR COOPERATIVE SOCIETIES

To:-

1. Sh. Suraj Mal Dabas, R/o C-402, Delhi State Newspaper Employees Federation CGHS Ltd., Plot No. 1, Sector-19, Dwarka, New Delhi-110078.
2. President, Shivani CGHS Ltd., Plot No. 1, Sector-12, Dwarka, New Delhi-110078.
3. President, Sunny Valley CGHS Ltd., Plot no. 27, Sector-12, Dwarka, New Delhi-110078.
4. RA O/o AR- Sec-7.
5. Computer Cell.