

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

F.NO.47/1735/GH/SEC-6/RCS/1533 - 1537
IN THE MATTER OF:

Dated: 22/7/24

Sh Karan Saluja
&
Sh Rakesh Trehan

Applicants

Versus

Punjabi Bagh CHBS Ltd

Respondent

ORDER

This order shall dispose of the appeals filed by Sh Karan Saluja & Sh Rakesh Trehan u/s 75 of DCS Act 2003 for not granting membership by Punjabi Bagh CHBS Ltd.

The brief facts of the case are as under:-

The applicants Sh. Karan Saluja & Sh Rakesh Trehan made applications dated 16.01.2023 to the president of the Punjabi Bagh CHBS Ltd for granting membership of the society as per proviso to section 75 of DCS Act 2003 but the society did not responded/provided membership even after passing 30 days of application. Both the applicants Sh Karan Saluja & Sh Rakesh Trehan had purchased First and Second floor respectively in House No 10/23 Punjabi Bagh CHBS Ltd by the way of sale deeds dated 31.08.2021 & 02.09.2021 respectively.

That this office has sought comments against the complaints of both applicants wherein the society has furnish its comments as under :

The proviso of the Section 75 states that a Cooperative House Building Society may admit to its membership more than the plots allotted. It is clear reading that society cannot admit members more than the plots allotted. Therefore, for every plot there can be only one members. In the instant case the society cannot make more than one member per plot. The word may mentioned in the proviso indicates that this provision is not mandatory but discretionary.

Further the proviso of section 75 DCS Act states "as per provisions of the byelaws of the society". In this reference we submit that thereis no provision in the byelaws of our society permitting members more than the plots available in the Housing Society.



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Further to use the discretionary power, there should be provision in the byelaws of the society. Therefore, the society and its Managing Committee cannot go beyond the provisions of the Act as well as the Byelaws.

The society further replied vide its letter dated 24.08.2023 stating that the appeal filed by the appellants for non grant of membership u/s 75 of DCS Act 2003 is liable to be rejected on the ground that the word "may" mentioned in the proviso indicates that the provision is not mandatory but discretionary. The society further submitted that there is no provision in the Bye-laws of society permitting members more than the available plots in the society.

I have gone through the appeal filed by the appellants as well as the reply submitted by the respondent society. In this regard it is pertinent to go through the extracts of Section 75 of DCS Act 2003 which is reproduced as under :

75. *A co-operative housing society shall not admit to its membership persons exceeding the number of dwelling units or plots as the case may be, available for allotment in that co-operative housing society.*

* *Provided that a cooperative house building society may admit to its membership more than the plots allotted in case the plot owner has constructed and sold floors, by charging transfer fee of five thousand rupees and share money and admission fee as per provisions of the by-laws of the society and in that case the committee shall grant membership within a period of thirty days after the submission of application for grant of membership by such applicant and in case of refusal by the committee, the applicant may appeal to the Registrar within thirty days of the refusal by the committee and the decision of the Registrar in such appeal shall be final.*

On going through the above mentioned provision it becomes amply clear that there is specific proviso only for the purpose of providing membership to the owners of floors in Cooperative House Building Societies in those cases where the original member/plot owner has constructed and sold the floors to separate purchasers. The proviso further prescribes about the charging of transfer fee of Five Thousand rupees plus share money and admission fee as per the bye-laws of the society. Thus, the interpretation made by the society that it is discretionary on its part to grant the membership is wrong/incorrect.

In view of the above facts and circumstances, I am of the considered opinion that the society is required to grant the membership to the appellants



Am

u/s 75 of DCS Act 2003 by charging transfer fee of Five Thousand Rupees as well as share money and admission fee as charged from other members of the society who have been seeking/granted transfer of membership as per section 91 of DCS Act 2003 and rules made thereunder.

Ordered accordingly



(Anil Kumar Singh)
Registrar Cooperative Societies

To

- 1 President/Secretary, Punjabi Bagh Co-operative House Building Society crossing Road No 7 & 24, East Punjabi Bagh, New Delhi-110026
- 2 Sh Karan Saluja r/o 10/23, First Floor, Punjabi Bagh Co-operative House Building Society crossing Road No 7 & 24, East Punjabi Bagh, New Delhi-110026
- 3 Sh Rakesh Trehan r/o 10/23, Second Floor, Punjabi Bagh Co-operative House Building Society crossing Road No 7 & 24, East Punjabi Bagh, New Delhi-110026
- 4 Asstt. Registrar (G/H Section-VI), O/o RCS, Parliament Street, Old Court Building, Delhi - 110001.
- 5 Asstt. Registrar (Computer Cell) with the request to upload the order on the departmental website.