

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.47/1294/GH/SEC I/2022/PART FILE/1590-94

Dated 26/7/24

IN THE MATTER OF:

Smt Lakshmi Krishnan

Petitioner

Versus

Managing Committee of Ashoka
Enclave CGHS Ltd

Respondent

ORDER

This order shall dispose of the proceedings initiated vide Notice dated 05.04.2023 issued u/s 37(1) of DCS Act, 2003 against the complaint dated 07.12.2021 & 28.02.2022 filed by Sh Kewal Singh Rawat and Ms Laxmi Krishnan respectively regarding fudging of accounts of society, cessation of rights to vote by Managing Committee, misappropriation of society fund and patronizing the delinquent officer by the Managing Committee of Ashoka Enclave CGHS Ltd.

The petitioner Ms Lakshmi Krishnan vide her complaint dated 28.02.2022 had inter-alia alleged that due to her efforts four erstwhile office bearers namely Sh B K Tiwari, Late Sh B R Premi, Late Sh Ravi Kant and Sh L R Gupta have been found guilty of embezzlement of huge sum of Rs 3.33 crore approx as per order of Registrar of Cooperative Societies dated 09.11.2020 and as a result the present Managing Committee made her target and to harass her by raising false liabilities/dues against her by fudging records and books of accounts, under the heading recovery of rental for locking of wholly unauthorized structure and payment towards construction in the sum of Rs 4,52,188 /- which is in violation of AGM resolution dated 24.02.2013, non-providing of NOC for conversion of flat from leasehold to freehold etc.

The other petitioner Late Sh Kewal Singh Rawat vide his complaint dated 07.12.2021 inter-alia alleged against the society to carry out of addition/alteration work without willingness of petitioner and declared him defaulter by society for not paying additional /alteration work. Raising additional demand of Rs 4,39,834 /- by society even after paying dues for additional/alteration work.

The then Registrar of Cooperative Societies vide order dated 09.11.2020 on the basis of various findings of Inquiry Officers u/s 62, 66 of DCS Act 2003 found guilty the members of erstwhile Managing Committee for the loss of Rs 3.33 crore approx. and ordered to restore the loss to the society by Sh B.K.Tiwari, Ex-President, Sh B.R.Premi, Ex-Secretary, Sh Ravi Kant, Ex-Vice President and sh L



R Gupta, Ex-Treasurer and declared them non-eligible for election as a member of the committee in terms of Rule 54 (d) of DCS Rules, 2007.

The abovementioned order dated 09.11.2020 of the then Registrar of Cooperative Societies was challenged before Ld. Delhi Cooperative Tribunal by Sh B.K.Tiwari and others (who were liable to bear the loss to society as per order dated 09.11.2020) wherein the Ld. Delhi Cooperative Tribunal vide its order dated 26.02.2021 put stay on the direction of impugned order dated 09.11.2020 till the final disposal of the appeal. The operative part of order dated 26.02.2021 of Ld Delhi Cooperative Tribunal is as under :

15. Accordingly, the operation of the part of the impugned order dt. 9.11.2020 directing recoveries of certain amounts from the appellants is stayed till the final disposal of the appeal. The application is partially allowed to the said extent.

16. Needless to say, the observations herein above are made only on a prima-facie view of the matter, based on the material available at this stage on record. Any observation made herein shall have no bearing on the final decision of the appeal after hearing all parties in details

The petitioner Ms Lakshmi Krishnan and others filed a Writ Petition No WPC 872/2022 before the Hon'ble High Court against the order dated 26.02.2021 of Ld Delhi Cooperative Tribunal wherein the Hon'ble High Court vide order dated 15.04.2024 disposed off the writ petition with the direction to Ld Delhi Cooperative Tribunal to decide the said appeal. The operative part of decision dated 15.04.2024 of Hon'ble High Court is as under :

- 1. Present writ petition has been filed challenging the interim order dated 26th February, 2021 passed by the Delhi Co-operative Tribunal.*
- 2. Since the appeal has been pending before the Delhi Co-operative Tribunal for the last more than three years, this Court disposes of the present writ petition with a direction to the Delhi Co-operative Tribunal to decide the said appeal as expeditiously as possible preferably within six months. The interim order dated 02nd February, 2022 passed by this Court shall continue to operate till the disposal of petitioners' appeal by the Delhi Cooperative Tribunal.*

Further, the petitioners made a fresh appeal before this office u/s 37 of DCS Act 2003, on the perusal of allegation leveled against members of current Managing Committee of Society this office pursue the matter u/s 61(1) of DCS Act 2003 and two notices dated 10.02.2023 & 22.02.2023 for hearing the matter were issued to both parties i.e. Sh Kewal Singh Rawat, Ms Lakshmi Krishnan (petitioners) and Managing Committee of society. Unfortunately, Sh Kewal Singh Rawat passed away in the meantime and Ms Lakshmi Krishnan only attended the hearing on the part of petitioners. Further, during the hearing petitioner Ms Lakshmi Krishnan urged to pursue the matter only u/s 37(1) of DCS Act 2003 not



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u/s 61(1) of DCS Act 2003 hence notice dated 05.04.2023 u/s 37 of DCS Act 2003 was issued to the society.

The society vide its reply submitted that the complainant is enjoying the additional structure built by the society and is not paying for the additional construction. The society further stated that if the complainant do not really wants to participate in the additional construction, she should (1) vacate the structure made by the society at the time of additional construction and illegally and forcefully occupied by her on the FAR obtained by the society from the DDA and (2) pay till date rent along with interest on the structure used till date and (3) File an affidavit in this good office that she will not construct any additional structure on increased FAR obtained by the society from the DDA. The society further prayed that the present complaint/application do not meet the conditions prescribed in section 37(1) of DCS Act and may kindly be dismissed with appropriate cost.

The complainant further submitted a rejoinder thereby stating that the present Managing Committee has deliberately chosen not to reflect amount of Rs 3.30 crore receivable from four delinquent erstwhile office bearers of the society consequent to the order dated 09.11.2020 of Ld. Registrar of Cooperative Societies u/s 66(2) of DCs Act. The recovery has been stayed by an order of DCT dated 26.2.2021. The applicant/complainant further raised issues of alleged defying of order of O/o RCS, violation of the provisions of building plan and mandatory green, illegal construction of temple in the society premises, sale of common area of car parking etc.

I have gone through the complaint filed by the complainants, reply submitted by the society as well as rejoinder filed by the complainant. In this regard, it is pertinent to mention that the complainant had earlier preferred WPC No 9689/2015 before Hon'ble High Court of Delhi seeking direction to RCS for action on their various complaints alleging certain irregularities in the functioning of the Ashoka Enclave CGHS Ltd. The then RCS has issued order dated 09.11.2020 u/s 66(2) of DCS Act 2003 thereby directing Sh B.K.Tiwari, Ex-President, Sh B.R.Premi, Ex-Secretary, Sh Ravi Kant, Ex-Vice President and Sh L R Gupta, Ex-Treasurer to restore the loss to the society as above jointly or severally, they shall not be eligible for election as a member of the committee in term of Rule 54(d) of DCS Rules, 2007. However, the said order was subsequently challenged by the concerned persons before the Ld.DCT which is still pending before the Ld. DCT. Besides, the complainant has alleged that the present Managing Committee of society has been harassing her by raising fictitious demand and declaring her as defaulter because the petitioner has been pointing the misdeeds of the erstwhile Managing Committee. It is pertinent to note that the Managing Committee of the society can be superseded u/s 37 of DCS Act 2003, if in the opinion of the Registrar, the committee of any co-operative society continuously makes default for ninety days or is negligent in the performance of the




duties imposed on it by or under this Act or the rules framed thereunder, the bye-laws or commits any act which is prejudicial to the interest of the co-operative society or its members or defies the directions issued by the Registrar under section 42 of this Act or fails to comply with the provisions of section 92 or there is a stalemate in the constitution or function of the committee or fails to initiate recovery of the dues of the financing institution inspite of a notice issued to the co-operative society by the financing institution within a period of ninety days or fails to remit the recovered amount from members, to the financing institution to which the society is indebted within a period of ninety days the Registrar may after giving the committee an opportunity to state its objections, if any, by order in writing direct to remove the committee and appoint one or more Administrator to manage the affairs of the society.

In view of the abovementioned facts and circumstances, I am of the considered opinion that no grounds are made out for supersession of the present managing Committee of the society u/s 37 of DCS Act 2003 and the petition filed by the complainants is devoid of merit and is hereby dismissed. Moreover, in case the complainant is aggrieved with the demand issued by the society, he/she may challenge the said demand u/s 70/71 of DCS Act 2003 in accordance with law.


Ordered accordingly.




(Anil Kumar Singh)
Registrar Cooperative Societies

To

- 1 President/Secretary, Ashoka Enclave CGHS Ltd, Plot No 8A, Sector-11, Dwarka, New Delhi-110075
- 2 Ms Lakshmi Krishnan, r/o Flat No 5002, Ashoka Enclave CGHS Ltd, Plot No 8A, Sector-11, Dwarka, New Delhi-110075
- 3 Asstt. Registrar (G/H Section-I), O/o RCS, Parliament Street, Old Court Building, Delhi - 110001.
- 4 Asstt. Registrar (Computer Cell) with the request to upload the order on the departmental website.
- 5 Guard File


(Anil Kumar Singh)
Registrar Cooperative Societies