

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.47/455/GH/SEC-4/107750419/1654-58

Dated: 07/08/24

IN THE MATTER OF:

Smt Emi Kakati

Petitioner

Versus

S.K.Agarwal

Respondent

In reg: Milan Vihar CGHS Ltd.

ORDER

This order shall dispose of the review application filed by Smt Emi Kakati w/o Lt. Sh R.P.Kakati u/s 115 (1) of DCS Act 2003 to review the order dated 09.11.2021 passed by the then RCS thereby directing that the membership of Lt Sh R.P.Kakati is liable to be ceased and any other subsequent transfer is liable to be quashed.

The applicant, Smt Emi Kakati has filed the instant application for review of order dated 09.11.2021 passed by the then Registrar of Cooperative Societies under Rule 41 of DCS Act 2003 in the matter of Sh S.K.Agarwal Vs Emi Kakati whereby the then RCS had ordered as under

late Sh R.R.Kakati had during his lifetime transferred the membership to Mrs. Bimla Rajdan out of first degree blood relation before allotment of flat, by registering a Will and GPA in her favour which is a violation of DCS Act, 2003 and DCS Rules, 2007. Hence, in exercise of the power conferred u/s 41 of DCS Act, 2003 the membership of late Sh R.P.Kakati is liable to be ceased and any other subsequent transfer of the membership is also liable to be quashed.

It is relevant to read the provisions of DCS Rules, 2007 which govern the review application under DCS Act & Rules. In this regard, Rule 157(1) of DCS Rules 2007 states as under :

Every application under sub-section (1) of section 115 shall be in the form of a memorandum setting forth concisely and under distinct heads the new and important facts which, after the exercise of due diligence, were not within the knowledge of the applicant or could not be produced by him when the order against whom review is preferred, was made or mistakes or errors apparent on the face of the record of other reasons for review. A memorandum of evidence shall accompany it.

The perusal of grounds stated in the application filed by the Smt Emi Kakati reveals that the applicant has stated that the matter was heard and



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disposed of without affording opportunity to the applicant i.e. Ms Emi Kakati as the notices of hearing for final opportunities was not served on the new address provided by the petitioner. She further submitted that after the death of her husband Sh Robindra Prasad Kakati, S/o, Late Shri. Radhi Prasad Kakati, Membership No.438 (Category -B) in Milan Vihar CGHS Ltd on 14.06.1998, the applicant shifted to her hometown in Assam. Late Sh R.P. Kakati, during his lifetime, had executed one WILL dated 21.01.1998, which was submitted by her during the course of hearing on 10.04.2018. However, the same could not be considered by the then RCS while passing order dated 09.11.2021 as no one appeared in the Court of Registrar of Cooperative Societies to present her case. However, the applicant failed to point out discovery of any new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by her at the time when order was made or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reasons.

In this regard, Hon'ble Supreme Court while deciding civil appeal No 4548/2009 titled Inderchand Jain Vs Motilal, while deciding the issue of jurisdiction of a court and /or the extent thereof to review its own decision has observed as under :-

"It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A re-hearing of the matter is impermissible in law. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.

Review is not appeal in disguise."

In the instant case the applicant, Smt Emi Kakati has failed to point out any new fact, which was not in the knowledge of the then Registrar of Cooperative Societies when the said order dated 09.11.2021 was passed by him. Instead the applicant has appealed against the said order in garb of review application.

In view of above mentioned facts and circumstances, I am of the considered opinion that the review application filed by Smt Emi Kakati for review of order dated 09.11.2021 passed by the then Registrar of Cooperative Societies in the matter Sh S.K.Aggarwal Vs Emi Kakati is not maintainable u/s 115 of DCS Act, 2003 read with Rule 157 of DCS Rules, 2007. Accordingly, the review application filed by Smt Emi Kakati is hereby dismissed.

Ordered accordingly.



Am
(Anil Kumar Singh)
Registrar Cooperative Societies

To,

- 1 President/Secretary, Milan Vihar Co-operative House Building Society, B-2 (GF) 72, I P Extension, Patparganj, Delhi-110092
- 2 Sh S K Agarwal r/o 151-A, Pocket-IV, Mayur Vihar Phase-I, Delhi 110091
- 3 Smt Emi Kakati r/o H.No 290 Jatia, Kahili Para Road, Guwahati, Assam-781006
- 4 Asstt. Registrar (G/H Section-IV), 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.