

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. 47/416/GH/W/Sec. 7/Coop./2022/1750-54

Dated: 19/8/24.

IN THE MATTER OF:

Smt. Hukam Kaur

Petitioner

Versus

The Sunrise Coop Group Housing society Ltd.

Respondent

ORDER

This order shall dispose of proceedings initiated vide Notice dated 09.06.2023 issued under section 37 (1) of Delhi Cooperative Societies Act, 2003 against the Managing Committee of Sunrise Cooperative Group Housing Society Ltd. located at Plot No.14, D-Block, Vikaspuri, New Delhi-110018.

2. Sunrise Cooperative Group Housing Society Ltd. (herein after referred as "the society") Plot No. 14, D Block, Vikaspuri, New Delhi-110018 is registered with this department at serial number 416 under the provision of DCS Act and Rules.

3. This office vide letters dated 19.12.2022, 18.01.2023, 01.02.2023 and 23.03.2023 directed the society to appear in person in the office of RCS in view of the award passed on 07.12.2016 by Ld. Arbitrator in Arbitration Case No. 419/JR/ARB/2010 and in connection to the letter dated 27.09.2022 of Ms. Neelam (D/o Hukam Kaur) regarding issue of NOC and order for refund of an amount of Rs. 7,51,435/- as per the Hon'ble High Court of Delhi order dated 07.12.2016. Moreover, after a considerable time with no reply from the society, a Show Cause Notice u/s 37(1) of DCS Act, 2003 was issued against the Managing Committee of the society vide F. No. 47/416/GH/w/Sec. - 7/Coop./2022/926 dated 09.06.2023 for repeatedly defying the direction of this office.



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4. With reference to the dues payable by the society and its beneficiary loanee members in the execution matter bearing recovery case file No.530/2008-09/67 dated 15.05.2009 filed by the DCHFC against the said society, the Competent Authority appointed Auditor namely M/s S B Shory and Co. (C-122) vide order dated 22.06.2009 for conduct of the Special Audit of the Society for the period 14.01.2001 to 09.07.2008.

5. Auditor M/s S B Shory & Co. submitted its report in the office of Registrar Cooperative Societies on 20.08.2009 and expressed their opinion on loan statement that there has not been any material impropriety or irregularities in the calculation of interest, Group Insurance Premiums, Dividend & Rebates if any or in the realization of money due to the society. Various loan accounts give true and fair view subject to personal account adjustments of Mr. Khazan Singh H/o Smt. Hukum Kaur. Some irregularities were expressed in personal account adjustments of Mr. Khazan Singh.

6. The Society filed a petition on 13.05.2010 under the provision of Section 70 of DCS Act 2003 against Smt. Hukum Kaur for the recovery of a sum of Rs. 4,30,000/- till 30.09.2009 as pointed out in the Special Audit report with interest at rate of 15.5% per annum every quarter with compounded interest till 31 March 2011. An Award under Section 71 of DCS Act 2003 was passed in this connection by Arbitrator on 10.09.2011 against Smt. Hukum Kaur to pay Rs. 5,82,147/- to the society.

7. Smt. Hukum Kaur filed an appeal No. 198/2011/DCT against arbitration case number 419/DR/ARB/10-11 dated 10.09.2011 before the Delhi Cooperative Tribunal where the Tribunal vide its order dated 26.11.2014 observed that that Ld. Arbitrator has taken into accounts all the facts as such there does not appear to be any illegality, infirmity or impropriety in the impugned award passed by them on 10.09.2011.

8. Smt. Hukum Kaur aggrieved with an order dated 26.11.2014 passed by Hon'ble Delhi Cooperative Tribunal, filed petition before Hon'ble High Court in WP(C) 1446/2015 against the society. The Hon'ble High Court vide its order dated 03/03/2016 set aside the impugned order as well as the award passed under Section 71 of the DCS Act, 2003. The operative part of the order dated 03.03.2016 of Hon'ble High Court in WP (C) 1446/2015 is as under:



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“Having regard to these facts, the court is of the opinion that there is clear error in appreciation of the circumstances as to the very liability of the petitioner. The impugned order as well as the Award of the Registrar are hereby set aside. The matter is remitted for fresh consideration to the Registrar who shall take into account not merely the Special Audit report but also the primary documents to decide if and to what extent in fact refund was made to late Khajan Singh from the society's account. Necessarily, such primary documents would include the bank account statements of the society to show debits if any for particular amounts that were paid over to late Khajan Singh.”

9. In pursuant to the direction passed by Hon'ble High Court for fresh adjudication the society was directed vide this office letter dated 29.04.2016 to submit its comments along with a copy of Special Audit, Accounts Statement, payment made to Late Shri Khajan Singh and Bank Statement of relevant period showing debit entries if any paid to late Shri Khajan Singh. As the society did not submit the requisite documents, a notice dated 07.06.2016 was issued against the society with direction to appear in the O/o RCS on 05.07.2016 at 03.00 PM with all the relevant documents. The reply received from the society was handed over to Smt. Hukum Kaur for her comments. Further counter reply of Smt. Hukum Kaur and rejoinder of the society were examined in this office and Arbitrator was appointed for adjudication under Section 71 of DCS Act 2003 and Arbitrator vide its order dated 07.12.2016 dismissed the claim petition of the society. The operative part of the order dated 07.12.2016 of Ld. Arbitrator is as under:

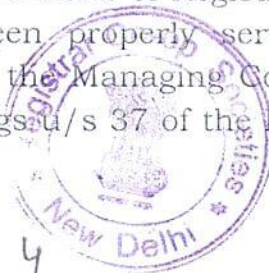
“I find that the Claimant society has failed to prove that the documents relied upon by the Respondent i.e. the payment of sums of Rs. 6014/- Rs. 4600/- Rs. 10,614/- and Rs. 55,368/- are fabricated and forged documents and the said sums have not been received by the claimant society from the Respondents predecessor-in-interest or have not been debited to the account of the respondent and the amounts not credited by the bank in the account of the claimant society. Moreover as to the sum of Rs. 55,368/- the claimant himself has made a statement that as to the payment of amount of Rs. 55,368/- by the respondent to the claimant society, there is no dispute at this stage. I find that the Respondent should not be made to suffer because of the reason of the claimant society not administering its affairs in a proper manner and not keeping the record in a proper manner and particularly when the Respondents have proofs in her possession for having already made the payments which are disputed by

the claimant society. Further, I find that the Respondent has filed a statement in which the Respondent has shown that if the above said sums are taken into consideration by the claimant society an amount of Rs. 76,347/- would have to be refunded by the claimant society to the Respondent. In the circumstances, I find the claim petition as devoid of any merits and the same is accordingly dismissed.”

10 Further, the society has filed an Appeal bearing no. 015/2017/DCT before Delhi Cooperative Tribunal against the award/order dated 07.12.2016. However the society was not interested in pursuing the case. Hence appeal bearing no. 15/2017/DCT was dismissed on 26.03.2021 in default and for non prosecution.

11. Furthermore, the society was offered ample opportunity vide this office letter dated 19.12.2022, 18.01.2023, 01.02.2023 and 23.03.2023 to appear in person in the office of RCS in view of the execution petition bearing Arbitration case no. 419/JR/ARB/2010 passed on 07.12.2016 and to refund of Rs. 7,51,435/- to Smt. Neelam D/o Sh. Hukum Kaur (Widow of late Sh. Khajan Singh) and to issue NOC after the matter of dues are settled. However, the Managing Committee of the society has fallen on deaf ear towards above said letters.

12. Accordingly a Show Cause Notice was issued against the society for non-compliance of direction by the society vide letter dated 23.03.2023 to appear before the Office of RCS with all the relevant documents. The authorized representative of the society was called on 12.06.2023 at 03.15 PM through the said Show Cause Notice No. F. 47/416/GH/W/Sec.-7/Coop./2022/926 dated 09.06.2023 to explain as to why the Managing Committee of the society may not be superseded under Section 37 (1) of DCS Act, 2003. Further, the Managing Committee of the society was offered various opportunities to appear in the said proceedings and to submit their arguments in the hearing held on 04.07.2023, 10.08.2023, 14.09.2023, 17.10.2023, 26.10.2023, 12.12.2023 and in final opportunities on 23.01.2023 as to why the Managing Committee of the society should not be superseded. Further, one more final notice was issued, informing that in case no one is present on next date of hearing, the case would be proceeded ex-parte. Moreover, before every hearing, separate notice has been served, all the notices were sent by speed post and it did not return to the office of Registrar Cooperative Societies which implies that notices have been properly served to the petitioner society. However, the office bearers of the Managing Committee of the society neither pay any heed to the proceedings u/s 37 of the DCS Act, 2003 nor appeared in



person or through their authorized representative in the proceeding under section 37 of DCS Act, 2003. The society vide its letter dated 10.01.2024 only informed that their General Body Meeting was held on 23.12.2023 wherein office bearer were elected and requested this office to drop the proceedings under Section 37 (1) of the DCS Act 2003 but without any supporting documents/arguments/reasoning.

12. In view of above, I am of the considered view that the Managing Committee of the society is negligent and defy the directions issued by the Registrar under Section 42 of the DCS Act, 2003. Now, therefore in exercise of the power conferred upon me under section 37(1) of the DCS Act 2003, the Managing Committee of the society is hereby superseded with immediate effect and Sh. A K Kaushal, DANICS (Retd.) has been appointed as an Administrator of the society for a period of 180 days to manage its affairs. The administrator shall before expiry of his term of office, arrange for constitution of the new committee in accordance with the rules and the bye-laws of the society. He shall be paid Rs. 10,000/- per month as an honorarium from the society fund. Further the Administrator is directed to execute the award/order passed by the Delhi Co-operative Tribunal. These parties are at liberty to avail appropriate legal remedies as per DCS Act 2003 and Rules 2007.

Ordered accordingly.



(Anil Kumar Singh)
Registrar Cooperative Societies

F. No. 47/416/GH/W/Sec. 7/Coop./2022/1750-54

Dated: 19/8/24

To

1. Sh. A. K. Kaushal, DANICS (Retd.)D-11, Seema CGHS Ltd. Plot No. 7, Sector-11, Dwarka, New Delhi-110075 (email id ajaykaushal@gmail.com)
2. President/Secretary, Sunrise CGHS Ltd. Plot No. 14, D-Block, Vikaspuri, New Delhi-110018.
3. Asstt. Registrar (G/H Section-VII), O/o RCS, Parliament Street, Old Court Building, Delhi - 110001.
4. PA to RCS.
5. The System Analyst (Computer Cell) with the request to upload the order on the departmental website.