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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 08.09.2026

CNR No. DLHC010101392013

+ **CONT.CAS(C) 55/2013**

HARI MOHAN PRABHAKER

.....Petitioner

Through: **Ms. Sunita Bhardwaj, Adv.**

versus

DR. SUDHIR KRISHNA

.....Respondent

Through: **Adv. Ms. Pratima N Lakra,
CGSC with Mr. Kunal
Bhashkar, Dy. L&DO
alongwith Mr. Nishant
Bharadwaj & Ms. Santha
Smruthi, Advs.**

CORAM:

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (Oral)

1. The present Petition has been filed under Sections 10 and 12 of the Contempt of Courts Act, 1971, seeking initiation of contempt proceedings as against the Respondent/Contemnor for alleged violation of the Order dated 17.08.2012 passed by this Court in W.P.(C) No. 4989/2012.

2. Ms. Sunita Bhardwaj, who appears as the Secretary of the association, submits that the Respondents are in abject contempt of the directions passed by this Court dated 17.08.2015, which read as follows:



“In view of the aforesaid submission, I am of the view that writ petition can be disposed of with the following directions:

- (i) The Association will compile the relevant documents concerning each of the apartment owners. The said documents will be filed with the Competent Authority within three weeks from today.
- (ii) In case there is any deficiency in the documents filed, the competent authority shall notify the Association with regard to the deficiency qua each apartment owner.
- (iii) The Competent Authority shall also notify each of the apartment owner's the pro rata charges to be paid by each one of them qua conversion and misuser.
- (iv) On this exercise being completed, the Competent Authority shall execute a separate Deed Of Apartment qua those apartment owners, who comply with the directions of the Competent Authority, i.e., cure the deficiencies adverted to and pay the requisite pro rata charges on demand.”

3. It is submitted that, in terms of the aforesaid directions, the Respondents were required to notify each of the apartment owners of the pro rata charges payable towards conversion and misuser. According to the Petitioner, no such communication or demand was ever made by the Respondents.

4. It is further submitted that the members of the Petitioner-Association had duly furnished all the relevant documents and, despite such compliance, no further steps were taken by the Respondents towards execution of the Deeds of Apartment. It is, therefore, contended that the Respondents have failed to comply with the directions issued by this Court.

5. **Per contra**, the Respondent-Department, i.e. the Land & Development Office (“**L&DO**”), has filed a Short Affidavit as also a Status Report placing on record its stand that there is no non-compliance of the directions issued by this Court. It is stated that the



requisite documents were sought from the concerned apartment owners and that demands towards the applicable pro rata charges were also raised. According to the Respondent, it is the Petitioner and its members who have failed to comply with the directions of this Court by not furnishing the requisite documents and/or making payment of the charges demanded.

6. During the course of hearing, this Court repeatedly called upon Ms. Bhardwaj to indicate the specific steps taken by the Petitioner-Association and its members towards compliance with the directions contained in the Order dated 17.08.2012, *inter alia*, being the payment of the pro rata charges. In response, reliance was placed upon certain communications addressed by the Association, including communications dated 01.03.2013 and 17.05.2013.

7. This Court has heard the learned counsel appearing for the parties at considerable length and has perused the material placed on record.

8. Upon a specific query with regard to the subsequent affidavits filed by the Respondent, learned counsel appearing for the Petitioner submitted that she had not been furnished copies of the Short Affidavit dated 15.09.2017 or the Compliance Affidavit/Status Report dated 06.01.2026.

9. The aforesaid submission is difficult to accept, particularly when the Short Affidavit dated 15.09.2017 has remained on record for several years. The Petitioner has had sufficient opportunity to examine the said affidavit and to respond to the factual assertions contained therein. Despite the passage of considerable time, no formal response or affidavit has been filed on behalf of the Petitioner controverting the subsequent factual developments placed on record by the Respondent.



10. Significantly, Ms. Bhardwaj has continued to rely primarily upon the initial Counter Affidavit filed by the Respondent. The subsequent developments and factual assertions contained in the affidavits filed thereafter, including the Compliance Affidavit and Status Report, have remained substantially uncontroverted.

11. Learned counsel appearing for the Respondent, on the other hand, submits that there has been no disobedience of the directions issued by this Court and that the Department has taken all steps required of it under the said Order. It is specifically submitted that the requisite pro rata charges were communicated to the concerned apartment owners and that the Petitioner and its members have failed to make the payments demanded. The aforesaid position has also been reiterated in the Status Report dated 06.01.2026.

12. The aforesaid assertion of the Respondent has also not been controverted by the Petitioner by way of any affidavit or documentary material. Considering that the Affidavit and the Status Report filed have remained uncontroverted for a significant period of time, in the interest of justice, this Court deemed it appropriate to afford the Petitioner one final opportunity to place on record its response, if any, to the Affidavits/Status Report filed by the Respondent. Such opportunity was granted subject to payment of costs of Rs.25,000/-.

13. At that stage, Ms. Bhardwaj submitted that it would not be possible for the Association to bear the aforesaid costs. She further submitted that, instead of filing a formal response, she may be permitted to controvert the contents of the Respondent's affidavits orally.

14. Though the Court was reluctant to permit the Petitioner to controvert factual assertions contained in affidavits merely through



oral submissions, the Petitioner was nevertheless afforded an opportunity to address the Court on the same.

15. Ms. Bhardwaj thereafter submitted that the contents of the affidavits filed by the Respondent were incorrect, erroneous and misleading. She reiterated that no communication had ever been addressed to the Petitioner or its members requiring payment of any pro rata charges and, consequently, submitted that the directions issued by this Court remained un-complied with. She once again sought to controvert and challenge the assertion by relying upon the contents of the counter-affidavit filed by the Respondent in the year 2014. Nothing has been placed on record to show whether any steps of any kind were taken by the Petitioners other than relying upon the averments made in communications addressed by the Respondent.

16. This Court is, however, unable to accept the aforesaid submission. The factual assertions contained in the subsequent affidavits filed by the Respondent have not been controverted by the Petitioner by way of any affidavit, documentary evidence or other material placed on record. Mere oral submissions made across the Bar, particularly when made after a considerable lapse of time, cannot, in the facts of the present case, be treated as sufficient rebuttal of the factual material placed before the Court. The affidavits filed by the Respondent specifically disclose that communications were addressed to the concerned apartment owners requiring them to comply with the requisite formalities and to make payment of the applicable pro rata charges. No material has been placed on record by the Petitioner to demonstrate that the said communications were either not issued or not received or that the demands contained therein had been duly complied with. The record indicates that service of the



Affidavit/Status Report was effected on the counsel on record as also Ms. Bhardwaj herself.

17. In view of the aforesaid, and having regard to the Compliance Affidavit/Status Report dated 06.01.2026, this Court is of the considered view that there is no wilful non-compliance of the directions contained in the Order dated 17.08.2012 by the Respondent-Department. The material on record indicates that the Respondent took the requisite steps in furtherance of the directions issued by this Court, whereas the Petitioner and its members failed to take the necessary consequential steps, including payment of the pro rata charges demanded. The allegations of non-compliance, therefore, do not stand substantiated.

18. In these circumstances, no further orders are warranted in the present contempt proceedings.

19. The Petition is accordingly disposed of with liberty to take such steps as may be permissible in law.

20. All pending application(s), if any, also stand disposed of.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 8, 2026/v/va