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

Date of decision: 1st October, 2026.

Uploaded on: 5th October, 2026.

CNR No. DLHC010468912026

+ **W.P.(C) 14425/2026 and CM APPL. 67527/2026**

RIVIERA O.G.H.S.

.....Petitioner

Through: Mr. Anuj Dhir, Advocate

versus

REGISTRAR OF CO-OPERATIVE
SOCIETIES AND ORS

.....Respondents

Through: Mr. Kirtiman Singh, Sr. Adv, Mr.
Ritwik Saha, Mr. Ujjwal Sinha, Mr.
Maulik Khurana, Mr. Shreeraj Singh,
Advocates for R-1
Mr. Kirtiman Singh, Sr. Adv, Mr.
Ritwik Saha, Mr. Ujjwal Sinha, Mr.
Maulik Khurana, Mr. Shreeraj Singh,
Advocates for R-2 to R-4

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DINESH BHATT

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, assailing the order dated 11th June 2026 passed by the Delhi Cooperative Tribunal (hereinafter, 'DCT') passed in ***Appeal No. 171/2022/DCT*** and connected appeals.
3. The dispute in the present case arises out of an issue relating to



placement of flower pots by the Respondent Nos. 2 to 4 in their flat bearing No. N-1, Riviera Apartments, 45 Mall Road, Delhi.

4. According to the Riviera Apartments Owners Cooperative Housing Society Ltd. (hereinafter, 'Society'), it had passed a General Body Meeting Resolution dated 13th October, 2019, wherein it had decided that any person making encroachment would be liable to pay a sum of Rs. 2000/- per day which shall be added to the monthly maintenance bill. The relevant portion of the said resolution reads as under:

“Resolved that legal action to be taken against Members/Residents who have placed their goods on society land or are otherwise occupying and trespassing on common paths, rooms, and other common areas belonging to the society. The Managing Committee is authorized to get such areas vacated and in the meantime impose a penal charge of up

*Riviera Apartment Owners Co-op. Housing
Society Ltd.*

Office No. 9 - North Wing, 1st Floor,

Riviera Apartments, 45 - Mall Road, Delhi - 110054

Email: rivieraaptt@gmail.com

to Rs.2000/- per day on the concerned member. The amount shall be added to his/her monthly maintenance bill.”

5. According to the Society, it had imposed this penalty against the original owner of this apartment namely, Late Shri Sanjay Chiripal as the owner had encroached upon the common pathway by placing flower pots and plants. According to the Society, the demands raised against the owner were pursuant to Resolution no. 4 as resolved in the GBM held in the Society on 13th October, 2019. Pursuant to the said resolution, notice dated 24th October, 2019 was issued by the Society to the claimant seeking an amount of



Rs.2000/- per day in the monthly bills of the claimant, w.e.f., 14.10.2019 onwards.

6. The said owner had challenged the imposition of this penalty and the Registrar of Cooperative Societies (hereinafter, 'RCS') had referred the matter under Sections 70 and 71 of the Delhi Co-operative Societies Act, 2003 to a Sole Arbitrator who had, vide Award dated 7th September, 2022 allowed the claim petition of Sh.Chiripal and set aside the notice dated 24th October, 2019 issued by the Society.

7. This award was challenged by the Society before the DCT which had also dismissed the appeal. The relevant portion of the impugned order is set out below:

"52. Since the society has not filed any reply to the application dated 01.08.2022 of the claimant inspite of notice dated 17.08.2022 issued to the society which was received by it on 18.08.2022 and further did not seek any additional time to file reply even after expiry of almost three weeks from the date of receipt of the notice on 18.08.2022, I deem it appropriate to decide the application dated 01.08.2022 of the claimant.

53. The claimant has not raised any new plea in the application dated 01.08.2022 as the claimant has taken one of the Grounds of challenge in his claim petition at para no.: 86 Ground M that "the claimant has not encroached any common land/space of the society."

*54. Action was to be taken by the society pursuant to resolution no.: 4 resolved in the GBM dated 13.10.2019 against members/residents who had occupied common areas belonging to the society and/or occupying society's land. Since the society itself admits that the land measuring 4920 sq yards does not belong to the society and it has no right or title over the land and apartments, being part and parcel of building Riviera Apartments, **therefore the very basis of the imposition***



of penalty on the claimant pursuant to resolution no.: 4 passed in the GBM held in the society on 13.10.2019 and pursuant to notice dated 24.10.2019 issued by the society to the claimant is illegal, unsustainable, void ab-initio and actuated by personal vendetta, vengeance, malice, animosity, personal grudges and ill will against the claimant.

55. Society cannot penalize any one for any alleged use/misuse of the land not belonging to it as it would amount to accruing benefit to the society from a land which does not belong to it. The act of the society of debiting an amount of Rs.2000 per day in the monthly bills of the claimant w.e.f. 14.10.2019 onwards has certainly caused undue harassment and mental agony to the claimant.

56. The act of the society of debiting an amount of Rs.2000/- per day on the claimant w.e.f. 14.10.2019 onwards cannot be sustained in the eyes of law and needs to be set aside as the land on which the society alleges that the claimant has placed around 50 gamlas does not belong to the society as per its own admission vide its letter dated 12.03.2019 submitted before Registrar Cooperative Societies.

57. I allow the application dated 01.08.2022 of the claimant. Further the application dated 27.12.2021 of the society seeking directions to the claimant to immediately remove his flower pots from the common area of the society in view of the admitted facts by the claimant is dismissed. The same is also not maintainable as the claim petition has been filed by the claimant and no relief can be sought by the respondent society in a claim petition filed by the claimant herein.

58. In view of the above, the claim petition of the claimant is allowed. Notice dated 24.10.2019 issued by the society to the claimant is set aside. All the demands raised by the society against the claimant pursuant to resolution no.: 4 resolved in the GBM held in the society on 13.10.2019 and pursuant to notice dated 24.10.2019



issued by the society to the claimant by debiting an amount of Rs.2000/- per day in the monthly bills of the claimant w.e.f. 14.10.2019 onwards are set aside.”

8. As can be seen from the above paragraphs, the DCT came to the conclusion that the imposition of penalty was totally vindictive and accordingly, upheld the award and dismissed the appeal. The Society is challenging the said order of the DCT in the present petition.

9. The Court has heard the Id. Counsel for the parties. On behalf of the Petitioner, Mr. Anuj Dhir, Id. Counsel submits that the imposition of discipline in the Society is necessary and the GBM had accordingly, resolved on 13th October, 2019 to impose the penalty on members and residents who are occupying the common paths.

10. On behalf of the owner, it is submitted that Sh.Chiripal passed away on 1st February, 2026. The Respondent Nos. 2 to 4 are the wife and legal heirs. The owner had rights in respect of two apartments *i.e.*, N-1 and S-5. It is further submitted by Mr. Kirtiman Singh, Id. Senior Counsel that the owner had a specially abled child and for the privacy of the said child the flower pots were put in the pathway. In any event it is submitted that this is not a case which calls for interference under Article 226 of the Constitution of India.

11. Heard. There can be no doubt about the fact that the members who are living in the Society should adhere to the discipline of the Society. However, it also needs to be reiterated that the Society and the Managing Committee have to work for the benefit of the members. Adopting adversarial positions against members by the Society or its Managing Committee is not good for the Society in the long run.

12. In this case, the owner *i.e.*, late Shri Sanjay Chiripal had two flats



bearing Nos. N-1 and S-5 in the same Society. Shri Sanjay Chiripal and his family has been forced to defend these proceedings for the last 08 years. Flat N-1 qua which the fine has been imposed by the Society, has already been sold to some third party.

13. It is also urged that one of the children of late member was a specially abled child because of whom pots etc. have been placed in order to enable his privacy and movement.

14. Be that as it may, since the original owner has himself passed away and the flat also stands transferred, the penalty the Society intends to impose is to the tune of Rs. 17,80,000/-. Such a huge amount of money does not deserve to be paid in these facts and in this background.

15. Accordingly, leaving the question of law open as to whether the Society can impose such penalty or not, a sum of Rs. 50,000/- is directed to be paid in the following manner by the Respondents No. 2 to 4:

- i) Rs. 30,000/- shall be paid by the Respondents No. 2 to 4 to the Society within a period of two weeks from today; and
- ii) Rs. 20,000/- shall be deposited by the Respondents No. 2 to 4 to the Delhi High Court Staff Welfare Fund within a period of two weeks from today in the following bank account:

Name: Delhi High Court Staff Welfare Fund

Account No. 15530110074442

Bank and Branch: UCO Bank, Delhi High Court

16. This order is being passed in the unique facts and circumstances of this case.

17. An additional ground has been raised by the Respondents No. 2 to 4 that because of the attitude which the Society is having against Respondents,



the transfer of the membership which has been approved in respect of flat bearing No. S-5 by the RCS and thereafter, by a Division Bench of this Court in **W.P. (C) 8754/2020** is also not being given effect due to which a contempt case bearing **CONT. CAS(C) 1205/2023** is also going on before the Id. Single Judge.

18. The Court is of the opinion that this dispute ought to be amicably resolved, let the parties appear before the Delhi High Court Mediation Centre on **14th October, 2026** at **3:00 PM** to make efforts and resolve the dispute with respect of S-5 as well.

19. The report of the mediation shall be placed on the next date of hearing in the concerned contempt court where **CONT. CAS(C) 1205/2023** is listed.

20. The present petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

21. The RCS shall cooperate in assisting the parties to resolve the matter.

PRATHIBA M. SINGH
JUDGE

DINESH BHATT
JUDGE

OCTOBER 1, 2026
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