



2025:DHC:2400



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

% *Date of decision: 10th March, 2025*

+ **W.P.(CRL) 562/2016**

1. **MR. RAJINDER SINGH**
S/o Late Budh Singh
R/o Flat No.66,
Panchdeep Appartment
Vikas Puri, New Delhi
2. **MS. RUCHI SALWAN**
W/o Sh. Jitender Salwan
R/o Flat No.2,
Panchdeep Apartments,
Vikas Puri, New Delhi.
3. **MS. SHASHI ARORA**
W/o Sh. Vijay Arora
R/o 104, Panchdeep Apartments,
Vikas Puri, New Delhi.
4. **MRS. SUDERSHAN SACHDEVA**
W/o Sh. D.R. Sachdeva
R/o Flat No.41, Panchdeep Apartments,
Vikas Puri, New Delhi.
5. **MRS. RAVI CHOPRA**
W/o Sh. Subhash Chopra,
R/o flat No.42, Panchdeep Apartments,
Vikas Puri, New Delhi.
6. **MRS. MORVEENA MASSEY**



D/o Late Yusuf Massey
R/o Flat No.85, Panchdeep Apartments,
Vikas Puri, New Delhi.

7. **MR. K.K. SHARMA**
S/o Late T.C. Sharma
R/o Flat No.100, Panchdeep Apartments,
Vikas Puri, New Delhi.
8. **MS. URMIL BATRA**
W/o Late Sh. R.P. Batra
R/o Flat No.62, Panchdeep Apartments,
Vikas Puri, New Delhi.
9. **MR. HARISH RANA**
S/o Sh. R.S. Rana
R/o Flat No.01, Panchdeep Apartments,
Vikas Puri, New Delhi.
10. **MR. G.S. PRASAD**
S/o Late Chander Deep
R/o Flat No.98, Panchdeep Apartments,
Vikas Puri, New Delhi.
11. **MR. KAWALJIT SINGH**
S/o S. Makhan Singh
R/o Flat No.8, Panchdeep Apartments,
Vikas Puri, New Delhi.
12. **MRS. KUMUD CHOPRA**
W/o Sh. Raman Kumar
R/o Flat No.21, Panchdeep Apartments,
Vikas Puri, New Delhi.



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13. **MR. RANJIT SINGH RANA**
S/o Sh. Bhagwan Singh Rana
R/o Flat No.81, Panchdeep Apartments,
Vikas Puri, New Delhi.

14. **MR. DAMMIAN TIGGA**
S/o Sh. A. Tigga
R/o Flat No.92, Panchdeep Apartments,
Vikas Puri, New Delhi.

.....Petitioners

Through: Mr. Kunal Kalra, Advocate.

versus

1. **GOVT OF NCT OF DELHI**
Through Registrar of Cooperative Societies
The office of RCS
Parliament Street
New Delhi.

2. **M/S PANCHDEEP CGHS LTD.**
Through its Secretary/President
Panchdeep Appartment
Vikas Puri, New Delhi.

3. **MR. R.K. MUDGIL**
Ex-Secretary of Panchdeep CGHS
Flat No.6, Panchdeep Appartment
Vikas Puri, New Delhi.

4. **MR. M.P. SHARMA**
Ex.-President of Panchdeep CGHS
Flat No.58, Panchdeep Appartment,
Vikas Puri, New Delhi.

5. **MRS. L.S. SINGH**
Ex.-Vice President of Panchdeep CGHS



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Flat No.33, Panchdeep Appartment
Vikas Puri, New Delhi.

.....Respondents

Through: Mr. Dhruv Rohatgi, Ms. Chandrika Sachdev and Mr. Dhruv Kumar, Advocates for R-1 (RCS).
Ms. Rupali Bandhopadhya, Ld. ASC for the State with Mr. Abhijeet Kumar, Advocate and SI Mohit Verma P.S. Parliament Street.
Mr. Sandeep Kumar, Advocate for R-2

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. A Writ Petition under Article 226 and 227 of Constitution of India read with Section 482 Cr.P.C has been filed by the Petitioners for directing Respondent No.1/ Government of NCT of Delhi to take action on the Complaints under Section 118 of DCS Act, 2003 and for investigations of the *fraud and embezzlement* against Respondent No.3 to 5.
2. The brief facts are that Respondent No.2 i.e. *Panchdeep CGHS Limited* was constituted by the employees of ESIC and 104 flats were constructed. The Respondent No.3 Mr. R.K. Mudgil was working as one of the Peon in ESIC and was having limited source of income from his salary. Since beginning, he actively participated in the affairs of the Society and was made its Secretary. Since the year 1986 Respondent No.3 and 4 were managing the affairs of the Society except for the period of one year i.e. 1991 and some other Members namely G.S. Prasad (Treasurer) and Mrs. Rama Arora (Secretary) were elected as the Members of the Executive



Committee. In that period, the old records of the Society were not handed over by Respondent No.3 and 4 to the then Managing Committee despite several correspondence and Complaints. Ultimately, the Managing Committee resigned in the month of April, 1991. Since then, Respondent No.3 to 5 had been managing the affairs of the Society by changing their positions inter-se and by playing foul play.

3. Some of the Members of the Society made complaints of the embezzlement of funds of the Society to Registrar of Co-operative Societies (RCS), in the year 1997-98. An enquiry was conducted by the office of RCS, wherein Respondent No.3 was held responsible for embezzlement of Rs.58 lakhs, but no action was taken against him. It is claimed that the then officials of RCS were in collusion with Respondent No.3, who was able to manage the Order on Enquiry Report against him.

4. It is asserted that Respondent No.3 to 5 have not got the accounts of the Society audited since the year 1991, despite which no action has been taken against them by the office of RCS. The acts of the Members of the Managing Committee are a punishable offence. It is further asserted that Respondent No.3 to 5 have committed several frauds of embezzlement of the funds of the innocent Members of the Society in the last more than 25 years for which reason they have failed to hand over the Records of the Society to anyone and have not got them audited since 1991. The Members of the Society have not been allowed to inspect the records of the Society which are in the occupation and possession of Respondent No.3 to 5.

5. It is further submitted that on the repeated Complaints of the Members to RCS, an Administrator was appointed who was initially not



allowed to take charge of the Society. Thereafter, Mr. K.S. Sharma who was appointed as an Administrator was given formal charge of the Society without any records. He was fully managed by Respondent No.2, 3 and 5 and would sign all the documents brought to him by Respondent No.3. The Administrator constituted a Committee for managing the affairs of the Society of which Respondent No.3 and 4 were the Members and had been authorized to manage all the affairs of the Society.

6. Several Complaints thereafter, were again made by the Petitioners to Shri K.S. Sharma, Administrator as well as RCS, but with no response. Ultimately, new Administrator Mr. M.P. Singh was appointed in the month of April, 2015. After his appointment as well, there was no change in the management of the affairs of the Society. He was also not given any Records of the Society by Respondent No.3 to 5 or allowed to inspect the Records as the access to the records was denied to him by Respondent No.3 to 5.

7. It is further asserted that in the year 2003, Complaint was filed by some Members of the Society pointing out the fraudulent acts of the Respondent No.3 which were not taken seriously by the Office of Respondent No.1.

8. Thereafter, in another game plan the Respondent No.3 to 5 filed Arbitration cases against some Members in which mostly either ex-parte Awards were made or the Awards were given against some persons impersonating as Members. The execution of these Awards was effected in the year 2013, but those Members then collected the records through RTI and were shocked to know the modus operandi of fraud played by



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Respondent No.3 to 5. The Petitioners first tried to save the execution of Awards against them by filing Appeals/Writs and thereafter, lodged a Complaint with Respondent No.1. However, they did not succeed and have thus, filed the present Writ Petition in which specific incidents pertaining to Flats No.66, 41 and 85 had been illustrated.

9. A prayer is, therefore, made to issue directions to Respondent No.1 to take action on their Complaints under Section 118 DCS Act and to direct Investigation Agency to investigate the fraud and embezzlements complained against Respondent No.3 to 5.

10. The **Respondent No. 1/RCS in its** short Affidavit, has stated that the record shows that in the earlier Writ Petition *vide* Order dated 25.09.2015, the Division Bench of this Court directed that the Writ Petition be treated as representation.

11. It is stated that as on 23.09.2016, the Society was under supervision of an Administrator, who was appointed *vide* Order dated 24.03.2015 and he had conducted elections of the Managing Committee of the Society on 29.11.2015. Then the Assistant Registrar of Office of the Registrar of Co-operative Societies, GNCTD had submitted his affidavit on behalf of the O/o the RCS, GNCTD in Cont. Case (CCP) No. 1032/2015, *Rajinder Singh & Ors. vs Aika Diwan*. This Court *vide* order dated 06.12.2016 disposed off the said petition, on the basis of the submitted Affidavit. From the said Order, it is clear that the RCS had duly complied with the Order of this Court and is not in wilful disobedience.

12. Further, in compliance of the Order dated 28.08.2023, the Department has already appointed 8 different Auditors to audit the accounts of the



society for financial year 1992-93 to 2014-15. The Management Committee of the Society has been seeking more time to retrieve the old documents from the concerned Authority of the relevant time to complete the audit. Department has been continuously pursuing the matter and pressing for the audit to be completed in a time bound manner. Presently, the audit for the F.Y. w.e.f. 1992-93 to 2000-01 has been completed and 2001-02 is under process and will be completed shortly.

13. **Respondents No. 2 to 5, in their Reply** to the Petition, have taken the preliminary objection to the maintainability of this this petition. It is submitted that as per section 118 of the Delhi Cooperative Societies Act, 2003 a separate Petition is required to be filed before the Registrar of Cooperative Societies for offenses under S.118 and the corresponding Rule 158 and 159 of DCS Act. It is only the RCS who has to act as per the DCS Act and Rules while taking the cognizance of the Complaint sent by the members of the Cooperative Societies, and this Court has no jurisdiction to entertain the present Writ Petition which is liable to be dismissed with heavy cost, or this ground of jurisdiction itself.

14. On merits, the contentions of the Petitioners are denied and it is submitted that the Petition be dismissed.

15. The Respondents No.3 and 5, who are present in person, submitted that they have ceased to be a part of the Management. After the appointment of the Administrator, all the Records have been handed over to the Administrator and they have no day to day concern with the administration of the Society.

16. **Submissions heard and record perused.**



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17. It is evident from the short Affidavit filed on behalf of Respondent No.1 that in the earlier Writ Petition No.8809/2015, the Division Bench of this Court *vide* Order dated 23.09.2016 had referred the earlier Petition which contained the same contentions to be treated as Representation and that appropriate Order be made within a period of six months.

18. The RCS in its Reply has further stated that pursuant to these directions, the Administrator was appointed *vide* Order dated 24.03.2015, who conducted the elections of Managing Committee of the Society on 29.11.2015.

19. Contempt Petition (C.C.P NO.1032/2015) was filed by the Petitioners in the earlier disposed of Writ Petition, but the same was disposed of with the observations that the Administrator was appointed and the elections have been conducted. Moreover, the audit had been commenced and till the audit was completed, the flats of the Respondents could not be attached. It was held that there was no wilful breach of the Orders of the Court. The Contempt was disposed accordingly, disposed of.

20. In the present Petition as well, similar prayers have been made to direct Respondent No.1 to take action on the Complaints under Section 118 DCS Act and to direct investigations into fraud and embezzlement as mentioned in the Complaints. However, the auditing of the accounts of the Society is already underway and they need to be completed before any financial picture emerges.

21. Furthermore, as explained by the Respondent No.1/RCS, no action can be initiated till the completion of the audit, no further directions are mandated except that the audits of the Society may be conducted



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expeditiously, after which the Complaints of the Petitioner be considered in accordance with law.

22. The Petition stands disposed of accordingly, along with pending Application(s).

**(NEENA BANSAL KRISHNA)
JUDGE**

MARCH, 10, 2025/va