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

Date of decision: 20th March, 2025

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W.P.(C) 7548/2023 & CM APPL. 29271/2023

SOURABH BHUTANI

.....Petitioner

Through: Mr. Abhishek Gupta, Adv.

versus

REGISTRAR OF COOPERATIVE SOCIETIES

& ANR.

.....Respondents

Through: Ms. Avni Singh, Adv. for GNCTD

with Mr. Satish Kumar, ASO, RCS.

Mr. Sandeep Kumar, Adv. for R-2.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioner has been compelled to file this writ petition owing to the completely unreasonable stand of the Registrar Cooperative Societies ('RCS') wherein the RCS has refused to recognize the membership of the Petitioner and forward the name of the Petitioner for allotment of the Category 'D' flat in Respondent No.2 society called '*The Talagang Cooperative G/H Society, Plot No.49, Sector-13, Rohini, Delhi-85*'.
3. It is an unfortunate case wherein the Petitioner's grandfather - Mr. Tara Chand Bhutani had become a member of the society in 1986 for allotment of a Category 'D' flat and was granted a membership bearing No.297. Unfortunately, he passed away on 6th October, 1997 and the father of the



Petitioner - Mr. Ashok Kumar Bhutani became the member.

4. An order was passed by the Id. Arbitrator dated 13th February, 2003 in *Arbitration Case No. 9203/AR/Arb./2002-03* titled *Sh. Ashok Kumar Bhutani v. The Talagang Coop. Group Housing Society Ltd.* wherein the Arbitrator recognized Ashok Kumar Bhutani as the rightful member and directed the society to allot a flat of 'D' category in the complex of the society along with granting a possession of the same.

5. Interestingly, this award was passed by the Id. Arbitrator who was referred the matter by the RCS itself for the purpose of adjudication. The operative portion of the said award read as under:

“The case was referred to me from Registrar Co-operative Society office under section 61 for adjudication. The claimant has filed an application under Rule 88 that Sh. Tara Chand Bhutani was the member of the defendant society vide Membership No. 297. After the death of Sh. Tara Chand Bhutani the membership was transferred in the name of Sh. Ashok Kumar Bhutani who is the nominee & legal heir of the original member of the defendant society & its information was given to the Registrar of Coop. Societies through vide resolution dt. 19.3.2000 as sent on 18.8.2000 as placed on file passed by the society. The claimant and his father have timely paid all the demands as were raised by the society from time to time. A draw of lot for allotment of flats was held by the society in which the name of claimant was not included in the list of inspite of the fact that he had deposited the full cost price towards a category 'D' flat. The claimant made several verbal & written enquiries from the society. This part of action of the society is unjustified and against principles of natural justice. The defendant society is depriving of the flat of the claimant with its malafided intentions. If any further legitimate, legal



demand of the society, the clamant is ready to pay the payments there of. Legal notice was sent but no answer from the society.

I have summoned both parties on 17.1.03 Sh. S. N. Mathur & Sh. Manoj Bhandari Counsels of claimant were present none appeared from the defendant society. Summons were issued again considering for natural justice & were given to the Counsels with the direction to paste the Summons on the doors of the defendant society or to get the proper service of summons by hand as next hearing dated given on 23.1.03. The service, of Summons have been done. The society has signed the Summons with stamp of society as returned by S. N. Mathur & as a attached in the suit file. On 23.1.03 both advocates made the arguments on the application regarding to restrain the defendant society to allot any flat to any members in 'D' category. The application under section 61 (3) is decided ex parte & stay was issued on 23.1.03 directing the defendant society to reserve one flat in 'D' category untill the decision of this case. And its copy was given to the counsels for service to the society, Lately at 2 P.M. Sh. Rakesh as a peon of the defendant society was appeared before me demanding verbally the adjournment of this case for next nearing & the copy of the claim which was given to him. The copy of stay was also given to him. The case was adjourned on 27.1.03 for the reply from defendant side.

Sh. S. N. Mathur as a Counsel of claimant was appeared on 27.1.03 & returned the copy of stay as signed by the society as well as the receipt of Regd. Post of the stay which are placed on file. The defendant society did not appear on this hearing date. I have given many chances to defend the case from the society but no result. It seems very clear that the defendant society has no plea/arguments and reply of this claim. The defendant society is not interested to defend its case



except to delay this matter. Hence I have no other alternative except to decide the matter exparte. Heard the claimant's Counsel exparte who argued that the claimant had made all the demanded dues of the society & the society is inclined to deprive of the flat of the claimant. Being the nominee of Sh. Tara Chand the membership has been transferred in the name of claimant.

Therefore, he is entitled for the allotment of a flat in 'D' category in the Complex of the society & possession of the flat may be allowed as earliest. Hearing claimant's Counsel arguments and the facts which are brought before me, the powers vested in me and after considering the matter I direct the defendant society to allot a flat of 'D' category in the complex of the society & give the possession of the same flat to claimant after taking the reasonable / proper balanced amount whatsoever if may be in the record of the society. The claimant is awarded under Rule 89.

Both the parties will bear their own costs.

Given under my hand & seal on this the day of 13th Feb, 2003”

6. Following the award passed by the Arbitrator, the Petitioner's father sought allotment once again. An execution petition was also filed wherein the RCS passed an order stating that the award deserves to be implemented within a period of 30 days. This order was also passed by the Executing Authority *i.e.*, the office of the RCS itself. However, despite that, the membership still did not come through.

7. An inquiry report was also submitted and the Government of National Capital Territory of Delhi ('GNCTD') then sent the letter dated 29th September, 2015 recommending certain names for allotment. The said letter also contained the name of Petitioner's father. At this stage, verification of



certain documents was sought by the RCS from the society. The said communication dated 30th June, 2016 is also on record.

8. The stand of the society, being Respondent No.2 is that certain original records of the society are not available. However, the Society confirmed the membership of the Petitioner's grandfather and the father. Despite this, the letter recommending the name of the Petitioner was not sent by the RCS. The RCS continues to insist on the original documents of the society. Hence this writ petition.

9. The prayer in this writ petition is as under:

“(A). Issue the directions to the Respondent No. 1/ Registrar of Cooperative Societies to forward the name of the Petitioner to the DDA immediately for allotment of category “D” Flat in the Society.”

10. Mr. Abhishek Gupta, Id. Counsel appearing for the Petitioner submits that there are several orders passed by various Benches of this Court repeatedly recognizing that the original records of the society having been misplaced or untraceable due to certain administrative reasons, the Petitioners would not be inconvenienced. Reliance is placed upon the following orders:

- ***W.P.(C) 11929/2015*** titled ***Krishan Kumar Chaudhary v. Registrar Cooperative Societies and Ors.*** [order dated 21st December, 2015]
- ***W.P.(C) 6811/2013*** titled ***Kanta Devi v. Registrar Cooperative Societies & Ors.*** [order dated 15th February, 2019]
- ***W.P.(C) 8706/2022*** titled ***Shashikant Sehgal v. Registrar of Cooperative Societies & Anr.*** [order dated 31st May, 2022]
- ***W.P.(C) 8643/2022*** titled ***Jitendra Lamba v. Registrar of Cooperative Societies & Anr.*** [order dated 31st May, 2022]



- ***W.P.(C) 10620/2023*** titled ***Vinod Kumar Jain v. Registrar of Cooperative Societies & Anr.*** [order dated 5th November, 2024]
- ***W.P.(C) 14453/2022*** titled ***Krishan Kumar Chaudhary v. Registrar Coop. Societies & Ors.*** [order dated 12th January, 2023]

11. In all the above orders, various Coordinate Benches and Single Judges of this Court have recognized the rights of similarly placed Petitioners and have directed the RCS to forward the name of such Petitioners to the DDA for allotment of the flat.

12. Under such circumstances, despite so many orders having been passed and the RCS being well aware of the Petitioner's status both vide award dated 13th February, 2003 and orders passed in execution petition by the RCS itself, they could not have held back the Petitioner's name from being forwarded to the DDA. Such conduct of the RCS is not condonable by this Court. The RCS was well aware that the Society is not in a position to produce the relevant records.

13. The status of the Petitioner as a member is not in dispute. Only technical objections are being raised for production of some old records which are clearly not available with the Society. Under these circumstances, there is no justification for the RCS to not forward the name of the Petitioner to the DDA. Accordingly, it is directed that the name of the Petitioner shall be forwarded by the RCS to the DDA for allotment of the Category 'D' flat within a period of two weeks from today.

14. In the facts and circumstances of this case, the RCS shall pay the litigation costs of Rs.50,000/- to the Petitioner.

15. Accordingly, petition is disposed of in these terms. All pending



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applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**RAJNEESH KUMAR GUPTA
JUDGE**

MARCH 20, 2025
Rahul/ss