

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 23.11.2009

+ **CM 1150/2008 in W.P.(C) 9591/2003**

ARVINDER SINGH SAWHNEY

...Petitioner

versus

TALAGANG G/H COOPERATIVE SOCIETY & ORS ...Respondents

Advocates who appeared in this case:-

For the Petitioner : Mr Gajendra Giri
For the Respondent No.1 : Mr R. K. Gupta
For the Respondent No.2 : Ms Zubeda Begum
For the Enquiry Officer : Mr B. B. Gupta

AND

+ **W.P.(C) 3829/2007**

AMITABH DASSANI

..... Petitioner

versus

THE REGISTRAR, COOP.SOCIETIES

..... Respondent

Advocates who appeared in this case:-

For the Petitioner : Mr Sandeep Kumar
For the Respondent No.1 : Ms Sujata Kashyap
For the Respondent No.2 : Mr R. K. Gupta
For the Enquiry Officer : Mr B. B. Gupta

AND

+ **W.P.(C) 3870/2008**

KANTA DEVI

.....Petitioner

versus

**THE TALAGANG COOPERATIVE GROUP
HOUSING SOCIETY LTD & ORS**

.....Respondents

Advocates who appeared in this case:-

For the Petitioner : Mr Sandeep Kumar
For the Respondent No.1 : Mr R. K. Gupta
For the Respondent No.2 : Mr B. B. Gupta
For the Respondent No.3 : Mr Sumit K. Singh for Ms Sonia Mathur

AND

+ **W.P.(C) 12386/2009**

VINOD KUMAR JAIN

.....Petitioner

versus

REGISTRAR CO-OPERATIVE SOCITIES & ORS ... Respondents

Advocates who appeared in this case:-

For the Petitioner : Mr Sanjay Poddar
For the Respondent No.1 : Ms Divya Jha for Mr Darpan Wadhwa
For the Respondent No.2 : Mr R. K. Gupta
For the Respondent No.3-5 : Mr Gajendra Giri
For the Enquiry Officer : Mr B. B. Gupta

CORAM:-

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MS. JUSTICE VEENA BIRBAL

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in Digest ?

BADAR DURREZ AHMED, J (ORAL)

1. The captioned application and the writ petitions have been filed as a sequel to the order dated 05.09.2006 passed by a Division Bench of this Court disposing of several writ petitions by a common order.

2. By virtue of the said order dated 05.09.2006, the Enquiry Officer was required to conduct an enquiry and prepare a report within three months of the order. The Enquiry Officer was directed to be paid remuneration, which was to be fixed after discussion with the Registrar, Cooperative Societies. It was also directed that after receipt of the report, the Registrar, Cooperative

Societies should complete the entire process within a period of six weeks and allotment of flats be made to entitled candidates immediately thereafter.

3. The enquiry was in respect of settling the seniority list apart from finalizing the question with regard to eligibility and membership of the various persons, category-wise, for allotment of flats in the Talagang Cooperative Group Housing Society Limited.

4. Unfortunately, the Enquiry Officer has not been able to complete the enquiry and submit a final report even though over three years have elapsed since the passing of the said order by the earlier Division Bench. Various reasons have been cited by the Enquiry Officer in her report dated 17.11.2009 (wrongly typed as 17.09.2009) for not having been able to complete the enquiry and submit a conclusive finding with regard to the directions given by the Division Bench by virtue of its order dated 05.09.2006. We are not entering upon the question of why the Enquiry Officer was not able to conclude the enquiry and submit a conclusive report nor are we going into the question of payment of balance fee to the Enquiry Officer. We are, at this juncture, concerned about the fact that the matter has been pending enquiry since 05.09.2006 though this Court had specifically directed that the enquiry report be submitted within three months and thereupon the Registrar of Cooperative Societies was directed to take action within six weeks. It is because of the pendency of the enquiry report that the fresh writ petitions have been filed being WP(C) 12386/2009, WP(C) 3829/2007 and WP(C) 3870/2008.

5. In the report dated 17.11.2009, the Enquiry Officer has categorically stated that she cannot conduct further enquiry in respect of the Talagang CGHS Limited and that the said report be taken as the final report and no further orders be passed “ordering” her to conduct further enquiry or to submit further enquiry report. It is for this reason as also for the reason that no conclusive enquiry report has been submitted that we are relieving the Enquiry Officer of her appointment as an Enquiry Officer and are appointing, with the consent of the parties, Mr S. K. Jha as the Enquiry Officer. Mr S. K. Jha is currently holding the post of Joint Registrar in the office of the Registrar of Cooperative Societies, New Delhi.

6. The new Enquiry Officer shall complete the enquiry by 31.03.2010 and, within six weeks thereafter, as directed by this Court by virtue of its order dated 05.09.2006, the Registrar of Cooperative Societies shall complete the entire process of allotment of flats to the entitled persons. At present, the said cooperative society is being managed by an administrator (Mr S. K. S. Yadav). He shall furnish a complete set of all records available with the society to the newly appointed Enquiry Officer within a week. The rest of the directions with regard to conduct of the enquiry, as given in the order dated 05.09.2009, shall apply. We also make it clear that till the enquiry report is submitted and action is taken by the Registrar of Cooperative Societies pursuant thereto, no further allotment be made or possession be handed over in respect of any flat in the said society. As soon as the report is complete, a copy of the same shall also be filed in this Court.

We also grant liberty to the petitioners to approach this Court in case of any difficulty.

7. With these directions, the said application and writ petitions stand disposed of. A copy of this order be given dasti to counsel for all the parties.

BADAR DURREZ AHMED, J

VEENA BIRBAL, J

November 23, 2009

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