

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 25.08.2009

+ **WP (C) 9940/2006**

ASHOK AGARWAL

... Petitioner

- Versus -

**REGISTRAR CO-OPERATIVE
SOCIETIES AND OTHERS**

... Respondents

Advocates who appeared in this case:-

For the Petitioner : Mr K.C. Mittal with Mr Mrinal and Mr Sumit Babbar
For the Respondent No.1 : Ms Deepa Tiwari for Ms Sujata Kashyap
For the Respondent No.2. : Ms Madhumita Bhattacharya for Mr Rajiv Bansal
For the Respondent No.3. : Ms Shazia Ambrin
For the Administrator : Mr R.K. Gupta alongwith Administrator-in-person

CORAM:-

**HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR 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. In this writ petition, the grievance of the petitioner is that the petitioner, being shown as No.1 in the waiting list, has not been allotted a flat in the Aravali Co-operative Group Housing Society Limited. By an order dated 17.05.2004, the Registrar of Co-operative Societies had terminated and cancelled the membership of 10 members. One of

those members was Smt. Bimla Jain, who was allotted flat No.E-76 in the said society. It is an admitted position that the membership of 10 persons had been cancelled and that Smt. Bimla Jain was one of them. In the counter-affidavit filed by the society, there is a reference to certain arbitration proceedings which had been initiated by the society in respect of Smt. Bimla Jain. It appears that the said arbitration proceedings had culminated in the award dated 09.10.2006. With regard to Claim No.1, which pertained to the handing over of the said flat No.E-76, the award is that the claimant society may approach the DDA for taking action against Smt. Bimla Jain and also for cancellation of her membership. The society was also permitted to take action against Smt. Bimla Jain for filing a false affidavit. Under Claim No.3, one Smt. Raj Rani, who had been authorized by Smt. Bimla Jain to act on her behalf as her attorney, was also impleaded in the arbitration case.

2. Thereafter, the Delhi Development Authority issued a letter dated 24.09.2007 to the said Smt. Raj Rani in respect of the said Flat No.E-76 in Aravali CGHS Limited. The said letter, a copy whereof is placed at page 198 of the paper book, clearly indicates that the allotment of the flat had been cancelled and that the possession of the flat should be recovered. Earlier, a conveyance deed in respect of the said flat had been executed on 13.04.2004 in favour of Smt. Raj Rani inasmuch as she had apparently purchased the same from Smt. Bimla Jain.

However, by virtue of the said letter dated 24.09.2007, Smt Raj Rani was informed that the said conveyance deed had been cancelled by the Lt. Governor of Delhi. At the end of the letter, Smt. Raj Rani was directed to hand over vacant possession of the said flat No. E-76 to the Managing Committee of the society within 30 days from the date of receipt of the letter under intimation to the DDA, failing which appropriate action was contemplated to be taken against Smt. Raj Rani in accordance with law. A copy of the said letter was marked to the President / Secretary of Aravali CGHS Limited with the request to take over vacant possession of the aforesaid flat and to inform the status. The matter has not progressed any further. Smt. Raj Rani has apparently not challenged the said cancellation letter dated 24.09.2007. The society has also not taken possession of the said flat No.E-76.

3. The directions given by the DDA are clear that Smt. Raj Rani is to vacate the flat and to hand over vacant possession to the Managing Committee of the society. Since that was not done, it is now incumbent upon the society to take over vacant possession of the aforesaid flat in accordance with law. The society has not taken any steps in that direction except to issue a show cause notice to Smt. Raj Rani, who apparently, has not replied to the same and thereafter the society has done nothing.

4. The learned counsel for the society submits that some clarification was sought from the DDA in view of the circular dated

01.10.2007. However, the learned counsel for the DDA states that the DDA stands by the letter dated 24.09.2007. Inasmuch as this issue stands clarified to the society, it is now for the society to take steps for taking over the possession of the said flat in accordance with law. It goes without saying that once the possession of the said flat bearing No.E-76 is taken over by the society, the petitioner would be entitled to allotment of the same in view of the fact that he is No.1 in the waiting list. The society shall initiate the proceedings in this regard immediately and not later than two weeks from today.

This writ petitions stands disposed of.

BADAR DURREZ AHMED, J

VEENA BIRBAL, J

August 25, 2009

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