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Mr. P.R. Kovilan Poongkuntran,  
Advocate.

VERSUS

THE REGISTRAR COOPERATIVE SOCIETIES PARLIAMENT STREET &  
ORS.

.....Respondents.

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Ms. Zubeda Begum, Advocate for  
the respondent No.1.  
Mr. Rajiv Bansal, Advocate for  
respondent No.3.  
Mr. S. Janani, Advocate with Mr.  
Deepak Goel.  
Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

3. **W.P.(C) No.293/03**

BAL MUKUND DUBEY

..... Petitioner.

Through: Mr. Kailash Vasdev, Senior  
Advocate with Ms. Geeta  
Kovilan, Advocate.  
Mr. P.R. Kovilan Poongkuntran,  
Advocate.

VERSUS

THE REGISTRAR COOPERATIVE SOCIETIES PARLIAMENT STREET &  
ORS.

....Respondents

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.

Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

4. **W.P.(C) No.302/03**

S. RAMANATHAN & ANR.

.....Petitioners  
Through: Mr. Kailash Vasdev, Senior  
Advocate with Ms. Geeta Kovilan,  
Advocate.  
Mr. P.R. Kovilan Poongkuntran,  
Advocate.

VERSUS

THE REGISTRAR OF COOPERATIVE SOCIETIES & OTHERS

.....Respondents.

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Ms. Zubeda Begum, Advocate for  
the respondent No.1.  
Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

5. **W.P.(C) No.1584/03**

RAJESH MALHOTRA

Advocate.

.....Petitioner  
Through: Petitioner in person with Mr. Y.P.  
Narula, Senior Advocate with Mr.  
Aniruddha Choudhury,

VERSUS

THE REGISTRAR OF COOPERATIVE SOCIETIES & OTHERS.

.....Respondents.

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Ms. Zubeda Begum, Advocate for  
the respondent No.1.

Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

6. **W.P.(C) No.1586/03**

BINDU MEHTA & ANR.

.....Petitioner  
Through: Ms. Bindu Mehta, petitioner in  
person with Mr. Y.P. Narula,  
Senior Advocate with Mr.  
Aniruddha Choudhury, Advocate.

VERSUS

THE REGISTRAR OF COOPERATIVE SOCIETIES, GOVT. OF NCT OF  
DELHI AND ORS.

.....Respondents  
Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Ms. Zubeda Begum, Advocate for  
the respondent No.1.  
Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

7. **W.P.(C) No.1615/03**

ADITYA KUMAR AGARWAL

.....Petitioner  
Through: Mr. Aditya Kumar Agarwal,  
petitioner in person with Mr. Y.P.  
Narula, Senior Advocate with  
Mr. Aniruddha Choudhury,  
Advocate.

VERSUS

THE REGISTRAR OF COOPERATIVE SOCIETIES & ORS.

.....Respondents  
Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.

Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

8. **W.P.(C) No.4442/03**

SYED KHALID HUSSAIN

.....Petitioner

Through: Mr. Sayed Khalid Hussain,  
petitioner in person with Mr. Y.P.  
Narula, Senior Advocate with  
Mr. Aniruddha Choudhury,  
Advocate.

VERSUS

THE REGISTRAR OF COOPERATIVE SOCIETIES & Ors.....Respondents

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

9. **W.P.(C) No.8389/05**

SUDHANSHU BAHADUR

.....Petitioner

Through:

VERSUS

MOUNT EVEREST COOPERATIVE GROUP HOUSING SOCIETY LTD. &  
ORS.

.....Respondents.

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Mr. S.K. Bangia, Administrator.  
Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

10. **W.P.(C) No.10723/05**

JASBIR SINGH WASU

.....Petitioner

Through:

VERSUS

THE REGISTRAR OF COOPERATIVE SOCIETIES, GOVT. OF NCT OF  
DELHI & ORS.

.....Respondents.

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

11. **W.P.(C) No.12671/05**

PARVINDER PAL SINGH WASU

.....Petitioner

Through:

VERSUS

THE REGISTRAR OF COOPERATIVE SOCIETIES, GOVT. OF NCT OF  
DELHI & ORS.

.....Respondents.

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Ms. Zubeda Begum, Advocate for  
the respondent No.1.  
Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

12. **W.P.(C) No.12696/05**

BHAWNA SINGH

.....Petitioner

Through:

VERSUS

MOUNT EVEREST COOPERATIVE GROUP HOUSING SOCIETY LTD.

.....Respondent

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.

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Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

13. **W.P.(C) No.390/06**

LOKESH CHANDRA GUPTA & ANR.

.....Petitioners

Through: Mr. Y.P. Narula, Senior Advocate  
with Mr. Anuruddha Choudhury,  
Advocate.

VERSUS

THE REGISTRAR COOPERATIVE SOCIETIES & ORS. ....Respondents

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Mr. Rajiv Bansal, Advocate for  
the respondent No.3.  
Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

14. **W.P.(C) No.392/06**

MS. YASMIN RAZA

.....Petitioner

Through: Mr. Yasmin Raza petitioner in  
person with Mr. Y.P. Narula,  
Senior Advocate with Mr.  
Aniruddha Choudhury, Advocate.

VERSUS

THE REGISTRAR COOPERATIVE SOCIETIES & ORS. ....Respondents

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

15. **W.P.(C) No.6540/07**

SURABHI DUTT & ORS.

.....Petitioners

Through:

VERSUS

THE REGISTRAR COOPERATIVE SOCIETIES GROUP HOUSING SOCIETY  
& OTHERS

.....Respondents

Through: Mr. Rakesh Khanna, Senior  
Advocate with Mr. Rajiv K. Garg,  
Mr. Ashish Garg, Advocate and  
Ms. Seema, Advocate.  
Ms. Ruchi Sindhwani, Advocate  
with Ms. Bandana Shukla,  
Advocate for the respondent No.1.  
Mr. R.K. Gupta, Advocate for Mr.  
R.P. Gupta, Advocate for the  
respondent Nos. 5 and 6.

**CORAM:**

**HON'BLE MR. JUSTICE SANJAY KISHAN KAUL**

**HON'BLE MR. JUSTICE VALMIKI J.MEHTA**

1. Whether the 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 the Digest?

**SANJAY KISHAN KAUL, J (ORAL)**

1. The Mount Everest Cooperative Group Housing Society Limited has a chequered history with large number of inter se litigations between members, members and society, inquiries into the financial affairs and ~~allegations of money being siphoned off. There are stated to be proceedings~~

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pending in respect of various aspects but in so far as these writ petitions are concerned, the controversy is limited to the allotment of flats to members.

2. We may note that there were 120 members and 120 flats were constructed, but, in respect of 40 flats, two flats each have been conjoined making them into 20 four bed room flats instead of the original 40 two bed room flats each. The result is that there are 40 two bed room flats, 40 three bed room flats and 20 flats of 4 bed rooms (which have been made by conjoining of the two bed room flats each).

3. There has been subsequent scrutiny of membership by the Administrator, objections to the reports of the Administrator, reconsideration by the Administrator and the final report of the Administrator was placed before the Registrar, Cooperative Societies as per directions issued by this Court to facilitate scrutiny. The result of all the scrutiny is that there is now a final list of 132 members. We may note that it is alleged that there are four other members who have however either partly or wholly taken back refund and have not been found to be eligible to be included in the list nor is any litigation initiated by them pending. The result of this is that it is these 132 members who have to be allotted flats.

4. The allotment took place of all the flats but in view of the allegations and counter allegations, 10 four bed room flats are lying sealed under order of this Court. There are also 12 other members who have paid their full amount and have yet not been allotted flats. We have thus two groups of members who are not in physical occupation of the flats, first consisting of 12 members who have not been allotted flats and the second

consisting of 20 members who have been allotted the 10 four bed room flats. We may also note that out of the first group of 12 members, 10 have paid moneys towards two bed room flats while two have paid moneys for three bed room flats.

5. It is in these circumstances that the learned senior counsel for the parties assisted by the Advocates on record, the other counsels and the parties sought to work out an amicable solution so that the members are not continuously deprived of their flats. More than nine years have elapsed since the allotment of the flats was made and thus naturally the members without flats are troubled by this prolonged litigation.

6. A workable solution has been found feasible in view of the permissible constructed area to be increased as a consequence of MPD 2021, and the existing unutilized FAR. One J.M.D. Construction Company has given a proposal for carrying out the further construction to facilitate creation of additional flats to meet the needs of the members. The important aspect is that the number of flats to be constructed would be more than the number of members for whom no flat exists which would result in some spare flats some for the society and the remaining flats will be with the builder to compensate him for the cost of construction and profits. This would facilitate no additional financial outflow by the existing members.

7. The parties agree that these writ petitions be disposed of with the following directions:

(i) It is accepted that there are finally 132 members of the society who have been cleared by the Registrar who alone are entitled to a flat.

There are four other members who were cleared but who have either taken back their money either in full or in part and hence not entitled to a flat.

(ii) The 10 four bed room flats allotted in favour of the second group of members, mentioned aforesaid, would vest with such members but the possession would be deferred to a date and the seal opened to facilitate simultaneous handing over possession of those 10 flats to members alongwith the flats to be newly constructed to be handed over to the remaining 12 members without any allotted flats at present though they have paid the full money.

(iii) The builder will construct 26 flats. These flats will consist of 24 two bed room flats and two 3 bed room flats. A separate tower will be created of 20 two bed room flats which will have the same area as the existing two bed room flats and which will have the parking facility similar to other flats.

(iv) The 12 members belonging to the first group, as noticed above, consist of 10 members who have paid for two bed room flats each while two members have paid for three bed room flats each. The two members who have paid for three bed room flats each are Ms. Bindu Mehta and Mr. Sayeed Khalid Hussain. The 10 claimants to the two bed room flats will be accommodated in the new tower to be constructed, being 10 out of the 20 flats to be constructed in that tower. Out of the remaining 10 flats, 6 flats will go to the members nominated by the builder which is his consideration for cost of construction, other expenses and profits. The remaining four flats will vest with the society. The builder will also construct 4 two bed room flats and 2 three bed room flats on the existing towers. The 2 three

bed room flats on the existing tower will go to the aforesaid two members while the 4 two bed room flats will go to the builder on terms aforesaid. The builder will thus get 10 two bed room flats in this manner.

(v) The four spare flats vesting with the society in the new tower ~~will be on the ground floor and the immediate floors above.~~ Out of these four flats, one flat will be reserved to meet any future financial liability as there are certain claims pending against the society. The remaining three flats will be utilized for common facilities for the members at large of the society. In case, no claim is held sustainable finally against the society, the fourth flat will also become available for such common facility.

(vi) The Registrar will increase the sanctioned membership strength of the society as there are now 132 members plus 10 flats to vest in the members nominated by the builder. Thus, the membership should be increased to 142 out of which 10 members will be nominated by the builder.

(vii) The builder will complete the construction within a period of 18 months plus four months grace period as proposed by him. In case, the proposal with the existing builder does not work out for any reason, the Administrator will ensure that a similar proposal is worked out with the new builder. Whichever builder undertakes the project, will file an undertaking to this Court to comply with the directions of the agreed terms noted in this order.

(viii) The Administrator, who is present in the Court, will execute all the necessary documents to carry out the intent of this order.

(ix) The builder will have to submit the fresh plans to the DDA though we may note that earlier permission had been granted for 11 more

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flats on 23.9.1999 which were not constructed. The DDA will carry out the necessary exercise within one month of the submission of the plans filed by the society. Such a decision will be taken by the DDA on the relevant documents being submitted by the builder within 30 days of the agreement being entered into with the society through Administrator. The other local authorities are also similarly expected to cooperate to put an end to this prolonged dispute by giving sanctions/approvals at the earliest.

8. We issue directions to all the parties to comply with the aforesaid terms which form part of our order. We make it clear that this brings to an end to all the disputes relating to the right of allotment of flats to members.

9. We express our appreciation for the assistance rendered by the learned counsels to bring this dispute to an end as also for the approach of the parties in finding an amicable solution.

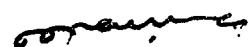
10. The writ petitions stand disposed of with the aforesaid directions.

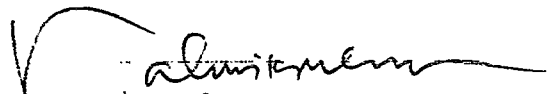
11. In order to monitor the progress and for issuance of directions, in case of difficulty, the lead matter being writ petition No.1581/03 will be listed for directions on 29<sup>th</sup> September, 2010.

**C.M. Nos.363/03, 12796/04 &14306/04 in W.P.(C) No.291/03, C.M. Nos. 365/03, 12793/04 and 14303/04 in W.P.(C) No.293/03, C.M. No.377/03, 8099/04, 12185/04, 14307/04 and 9800/06 in W.P.(C) No.302/03, C.M. Nos.2591/03, 11456/03, 14637/04, 14640-41/04, 1797/05, 2372-2373/05, 15397-15398/05, 15642-15643/05, 13406-13408/06, 13411/06, 12740/07, 17528/07, 6628/08 and 6310/09 in W.P.(C) No.1581/03, C.M. No.2601/03 in W.P.(C) No.1584/03, C.M. No.2605/03 in W.P.(C) No.1586/03, C.M. No.2666/03 in W.P.(C) No.1615/03, C.M. Nos.7590/03 & 6697/07 in W.P.(C) No.4442/03, C.M. No.6187/05 in W.P.(C) No.8389/05, C.M. Nos.296-297/06 in W.P.(C) No.390/06 and C.M. Nos.298-299/06 in W.P.(C) No.392/06**

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In view of the disposal of the writ petitions, all applications  
stand disposed of.

  
**SANJAY KISHAN KAUL, J.**

  
**VALMIKI J. MEHTA, J.**

AUGUST 03, 2010  
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- CM 20705/10 - Modification of order 3/8/10