

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 71/2015 & CM No.12938/2015**

Date of decision : 3rd August, 2015

M.B. MUGHAL Petitioner
Through: Mohd. Azhar and Mr. Ankit Goel,
Advs. with petitioner in person

versus

REGISTRAR OF COOPERATIVE SOCIETIES & ANR.
..... Respondent
Through: Mr. Anuj Aggarwal, ASC for R-1
Mr. Sunil Sabharwal and
Mr. Sanjeev Rajpal, Adv. for R-
2/Society
Mr. Rahul Sabharwal, Adv. for R-3

CORAM:
HON'BLE MS. JUSTICE GITA MITTAL
HON'BLE MR. JUSTICE I.S.MEHTA

GITA MITTAL, J (Oral)

1. A failure report has been received from the Delhi High Court Mediation & Conciliation Centre.
2. The petitioner makes a grievance that despite the directions made in our order dated 4th March, 2015, she has not been shown the directed records. It is submitted by learned counsel for the respondent no.2/society that the respondent no.2/society was not in a position to comply with the directions for the reason that its

records have been seized by the Economic Offences Wing of the Crime Branch of the Delhi Police which was investigating FIR No.111/10. Copy of the seizure memo of the documents which were seized has been placed before us. Learned counsel for the respondent no. 2 draws our attention to the documents mentioned from serial no. 10 to serial no. 28 of this list. We find that all that was seized were ledgers of the society. So far as the other documents, including receipts issued with regard to payments received by the society as well as the documents relating to payments made to the respondent no.1 are concerned, they would be very well within the possession of the respondent no.2/society. The respondent no. 2, therefore, is not in a position to identify payments which have been received from the petitioner or the payments made thereof to the respondent no. 3. There is also nothing on record to quantify the liability of this individual flat-owner so far as the liability to the respondent no. 3 is concerned.

3. Our attention is also drawn to the award passed in arbitration case no. Arbit/2/98-99 in the claim by the Delhi Cooperative Housing Finance Corporation Limited against the respondent no.2/society and loan members. The Arbitrator has categorically made the award against the respondent no.2/society alone. The recovery certificate issued by the Registrar of Cooperative Societies in Form 22 is also directed against the society. There is substance in the petitioner's grievance that it is the property which

is owned and under the control of the society is required to be proceeded against for recovery of the dues.

4. This writ petition was necessitated for the reason that the learned Financial Commissioner was not holding sittings. We are informed that the Financial Commissioner had since started functioning.

5. In view thereof, the petitioner shall appear before the Financial Commissioner in the Revision Petition No. 260/2014 on 6th August, 2015.

6. Further adjudication in the matter shall abide by the outcome of the revision petition. The interim orders dated 5th January, 2015 shall continue till the same are modified or varied by the Financial Commissioner after hearing the parties.

7. The petitioner shall be at liberty to make an application with regard to de-sealing of the flat in question before the Financial Commissioner.

8. This writ petition and the application are disposed of in the above terms.

Dasti to parties.

GITA MITTAL, J

I.S.MEHTA, J

AUGUST 03, 2015(kr)