

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

+ **W.P.(C) 3968/2015 & CM No.7083/2015**

% **Date of decision : 2nd December, 2015**

SANGEETA GUPTA Petitioner

Through: Mr. Rajiv Vig, Adv.

versus

REGISTRAR COOPERATIVE SOCIETIES AND ANR.

..... Respondent

Through: Mr. Naunidh S. Arora, Adv. for R-1
Mr. Sandeep Kumar, Adv. for R-2

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE I.S.MEHTA

JUDGMENT (ORAL)

GITA MITTAL, J

1. It is an undisputed fact before us that the petitioner was a valid member of the Bhagwati Coop. Group Housing Society Ltd. (Society hereafter)-respondent no. 2 herein. She made certain payments demanded from her to the society. As there was some complaint with regard to mis-management of the society, the petitioner submits that she served a letter dated 25th May, 2001 seeking to resign from the society and the consequential refund of the amount deposited. Despite a reminder thereof on 20th January, 2002, no refund of the amount has been effected to her.

2. The petitioner disputes acceptance of her resignation. Our attention is drawn to a letter dated 7th September, 2002 admittedly addressed by the society to the petitioner asking her to reconsider her

resignation. It was stated therein that the secretary of the society who was guilty of irregularities had been removed from his appointment and a case stood filed against him. It was also stated that construction had been re-started with the cooperation of the petitioner and that the money deposited by the petitioner was being utilised towards the cost of the land and the construction.

3. It is an admitted position that till date, the amount of refund has also not been effected.

4. Mr. Rajiv Vig, learned counsel for the petitioner submits that in accordance with the directive no. 3(1)/86/Legal/976-A/981-A dated 17th June, 1986, the society was required to inform the Registrar of Cooperative Societies as well as the member concerned of the acceptance of his resignation and to immediately refund the amount thereupon. In the present case, this directive has not been complied with and no information was given to the petitioner also with regard to the acceptance of her resignation.

From the above facts it, therefore, appears that the society itself has not treated the resignation of the petitioner as having been finally accepted nor has it acted thereupon.

5. The society has taken a stand that the amount could not be refunded in view of the interim orders passed by the RCS vide orders dated 8th November, 2004. Learned counsel for the petitioner disputes the applicability of this order to refunds which the society was required to make.

6. The record before us would disclose that vacancies are still available in the society.

7. The petitioner's claim before the Arbitrator was rejected by the order dated 23rd February, 2012 on the ground of limitation which was sustained by the Delhi Cooperative Tribunal by the order dated 18th March, 2014.

8. Learned counsel for the petitioner submits that the petitioner is willing to make payment of the deficient amount with interest at the rate of interest in accordance with law. The offer made by the petitioner seems to be reasonable and fair.

9. It is submitted by Mr. Sandeep Kumar that in terms of Section 36 of the DCS Act prior to 28th January, 2005, the petitioners was liable to pay interest @ 18% per annum and after this date, the petitioner is liable to pay interest @ 10% per annum,

10. In order to bring the disputes between the parties to an end, it is directed as follows :-

- (i) The respondent-society shall inform the petitioner of her dues with interest as detailed in para 9 within a period of two weeks from today.
- (ii) Subject to the petitioner depositing the said amount within a further period of three months thereafter, the membership of the petitioner shall stand restored.
- (iii) The orders dated 23rd February, 2012 and 18th March, 2014 are set aside and quashed in the above terms.

This appeal and the application are disposed of in the above terms.

This order has been passed in the peculiar facts and circumstances of the present case and shall not be treated as a

precedent in any other case.

Dasti

GITA MITTAL, J

I.S.MEHTA, J

DECEMBER 02, 2015

kr