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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) 1698/2014, CM APPL.3552/2014

R.P. ARORA

..... Petitioner

Through: Mr. P. Acharya, Advocate.

versus

REGISTRAR OF SOCIETIES & ORS.

..... Respondents

Through: Mr. Satyakam, ASC, GNCTD for
Resp-1.

Mr. R.D. Makhija, Advocate for Resp-2&3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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03.03.2016

The writ petition is directed against an order of the Registrar dated 25.02.2014.

The petitioner had complained that for the RWA CD Block, Hari Nagar, New Delhi, an association was already in existence and that the registration of another cooperative society by misrepresentation was illegal. It was specifically alleged that by an order dated 04.05.2011, Registrar had permitted registration by taking on record an affidavit which was false. The petitioner relied upon several representations and objections - filed between the year 2009 and 2011 claiming that the association came into existence and secured the benefit of the registration as Society with the authority of

law. The Registrar reasoned that the registered society was not seeking any change of name but that the grievance of the complainant that the Society should not be registered with that particular name was only because its name was identical with that of the subsequent one. The Registrar rejected the representations in the following terms: -

“B. ORDER

(1) On perusal of the records, submissions made by both the parties and on the applicability of the Societies Registration Act, 1860 and Rules framed there under and the guidelines issued by this department, I hold that this is a fit case for review of the order passed by this department dated 04/05/2011. The complaint seems to be without any legal basis. The Societies Registration Act, 1860 does not provide that a society registered with a particular name has to be deregistered only because its name is identical with some unregistered society.

(2) Section 2 of the Societies Registration Act, 1860 provides that the Memorandum of Association shall inter-alia contain the name of the society and Section 3 of the Societies Registration Act, 1860 provides upon such memorandum and certified copy of the Rules and Regulation of the Society is required to be filed for registration of the society along with fees. The registration of the society i.e. “CD-Block, LIG Flats, Residents Welfare Associations, Hari Nagar, New Delhi – 110 064”, registered on 28.08.2009 is in accordance with the provisions of the Societies Registration Act, 1860.

(3) Insofar as affidavit proforma is concerned to the extent that it mentions that “the name of the proposed society is NOT identical to the non-registered society in the locality as per knowledge of department” hardly has any bearing because this does not have the sanction under the Act. The guidelines and procedures issued by this Department does not have the sanction under the Act. Further, the guidelines do not have

binding effect of law. There is a need to suitably amend the language of the affidavit by deleting i.e. Affidavit No.1 – “non-registered society in our locality as per my knowledge”.

(4) The registered society is not seeking any change of name. The grievance of the complaint is that a society should not be registered with a particular name only because its name is identical with that of the complainant has no basis in law. The only obligation upon the Registrar of Societies while registering a society is to ensure that the name of the society is not identical to any other existing registered society which is not the present case.

(5) In view of the aforesaid facts, the order of this department issued by the then Registrar (F&S) contains an error apparent on record. Hence on review, the order of the Registrar dated 04/05/2011 is set aside for the aforesaid reasons recorded in the foregoing paras and the complaint has no merit, DISMISSED. Ordered. Filed.”

It is submitted that the impugned order is in error because the registration of society was done under suspicious circumstances and taking into account the false affidavit and that the registered Society cannot claim to represent the interest of others who might be the members of the Association. It is further submitted that the existence of two identically named bodies is likely to cause confusion. Counsel also submitted that the matter is pending for mediation and possible settlement. It is stated that the Court had referred it for mediation on 16.12.2015 and in the circumstances it would be in the interest of justice for all that the matter is left for possible settlement.

Essentially, the question is whether the existence of an unregistered Association constitutes a bar for the registration of

another similarly named body. The Registrar had considered all the objections of the petitioner and concluded that since the complainant was not member of the registered body, the grievance made out by him for cancellation of the registered Society's name or registration was unwarranted. We see no reason to interfere with that reason as it is neither contrary to law nor unreasonable. The disposal of this petition will, however, not preclude ongoing settlement process before mediation.

The petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MARCH 03, 2016

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