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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1786/2012, C.M. NO.3912/2012**

DIDAR SINGH & ANR Petitioners
Through : Sh. J.P. Sengh, Sr. Advocate with Sh.
Rakesh Garg, Sh. Rohit Sharma and Ms. Vanessa
Singh, Advocates.

versus

REGISTRAR, COOPERATIVE SOCIETIES, DELHI & ORS.
..... Respondents
Through : Sh. Rajat Malhotra, Advocate, for
Respondent No.1.
Sh. Manish Chauhan, for Sh. Vivek Kumar
Tandon, Advocate, for Respondent No.3.
Sh. Kirti Uppal, Sr. Advocate with Sh. Aman
Bhalla, Advocate, for Respondent No.4.
Sh. Chand Zafar, Advocate, for Respondent No.5
along with the respondent in person.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **01.03.2016**

The petitioners' grievance is with respect to the pendency of their application for impleadment before the Financial Commissioner – since they claim to be valid members having acquired title to a flat which was “from the original member Sh. Rajinder Singh Sethi” – who was initially expelled in 1985 but whose expulsion was set aside on 22.08.1990. During the hearing, learned counsel for the respondent, i.e. legal representatives of Late Smt. Somvanti Devi

submitted that for a proper resolution of *inter se* disputes, all parties may be heard and a final decision be taken by the Financial Commissioner.

This Court notices that a substantial number of cases filed are concerned with rival claims to membership and membership benefits, i.e. flats arising out of subsequent and successive resolutions of Managing Committees often on account of expulsion proceedings pending before the Registrar Cooperative Societies (RCS). For instance, when 'A' is expelled by the Managing Committee and approval proceedings are pending before the RCS, the Cooperative Society [hereafter "the Society"] may proceed to admit 'B' as a new member towards the vacancy caused by 'A'. However, 'B', in such events is not in the know as there is nothing by way of rules or instructions which compels the Society to disclose the subsequent induction of another member. As a result, when A's expulsion is not approved, a claim is made by him or her for not only restoration of membership but also other benefits such as allotment of flats. It is here that the rights of subsequent allottee 'B' who might have been an innocent third party, gets implicated. To avoid such recurring situations, this Court hereby directs that following appropriate instructions be forthwith issued by RCS thereafter for the better administration of the record and to avoid multiplicity of proceedings and possible conflicting decisions:

- (a) Upon receipt of the file for approval under the relevant provision of Delhi Cooperative Societies Act and Rules, for expulsion of a member of any cooperative society, notice shall be issued to both

the outgoing member and the Society. The notice shall clearly require disclosure by the Society as to whether the vacancy has been filled subsequently by it.

- (b) Even at the stage of final approval, after hearing the expelled member and the Society, and during the pendency of such approval proceedings, the RCS shall obtain – before pronouncement of final orders, an appropriate undertaking/declaration by the office bearers of the concerned Society that in the event approval is granted and a new member is included, such membership shall be subject to the final outcome of such expulsion proceedings, i.e. by way of revision, writ proceeding etc.
- (c) While inducting a new member after approval of proceedings, the result to be made by every Society shall likewise contain an express stipulation that the induction of a new member is against a vacancy caused by expulsion of an erstwhile member which will be subject to the final outcome of the approval of expulsion proceedings.
- (d) In the event of induction of any member by a Society against a vacancy caused by expulsion, upon receipt of notice of writ petition, appeal or proceedings in respect of such expulsion which is not final but subject to such proceedings/appeal before the higher authorities, the Society shall disclose the particulars immediately on receipt of notice of the appellate/revisional forum or Court, for better and fuller adjudication so that the third party/subsequent allottee is not kept in the dark.

- (e) The RCS shall ensure that all the files maintained by it in respect of each society are not only updated but appropriately digitised by application of suitable software to enable search for effective storage at any given point of time with respect to pendency of expulsion proceedings/approval of new members etc. Furthermore, it shall also contain provisions for inventorising all disputes in all respects –
- (f) The Society-wise data of filing etc. shall be created. This shall be carried out as expeditiously as possible and preferably within nine months from today.

All rights and contentions of the parties are kept open. The Financial Commissioner is directed to dispose of the review petition on the merits after hearing the contentions of the parties, including the present petitioner within three months from today. The writ petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MARCH 01, 2016

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