

\$~04

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

+ W.P.(C) 4602/2014

BANWARI LAL SHARMA & ORS. Petitioner
Through Ms. Richa Kapoor, Advocate.

versus

THE REGISTRAR CO-OPERATIVE SOCIETIES & ORS.
..... Respondent
Through Mr. Satyakam, Additional Standing
Counsel for GNCTD.
Mr. D.S. Mahendru, Advocate for DDA.
Mr. B.R. Kaushik, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

%

01.09.2016

C.M.No.31957/2016

This is an application for correction of paragraph 7 of the order dated 4th August, 2016. The said paragraph reads as under:-

“7. As far as Flat No.624 is concerned, the same was allotted to Ajay Singh Bawa and he has now accepted the Flat No.152 in terms of draw of lots held on 11th July, 2014 and shifted to the said flat. Accordingly, Flat No.624 will become vacant instead of Flat No.713.”

2. It is pointed out that Flat No.624 is in occupation of Ajit Singh Gulia, who has now been allotted Flat No.125. Flat No. 624 has been allotted to Sukhdev Singh Sandhu as per the draw of lots held on 11th July, 2014. In these circumstances, paragraph 7 of the order dated 4th August, 2016 requires correction and would read as under:-

“7. As far as Flat No.624 is concerned, the same has been allotted to Ajit Singh Gulia. The said Ajit Singh Gulia has now been allotted Flat No.125 in the draw of lots held on 11th July, 2014. Flat No.624 has been allotted to Sukhdev Singh Sandhu in the draw of lots held on 11th July, 2014.”

Corrected order will be uploaded on the website.

The application is disposed of.

W.P.(C) No.4602/2014

3. Mr. Ajit Singh Gulia, who is present in the Court, has stated that if given an option, he would like to continue to occupy Flat No.624 and not shift to Flat No.125, which has now been allotted to him. We simply take the said statement on record without making any observation.

4. Mr. R.S. Chauhan, President of Bahawalpur Cooperative Group Housing Society is present. He states that as per the draw of lots held on 11th July, 2014, Flat No.476 and Flat No.713 of category 'A' are vacant. He submits that the Society has no objection to inter se or group exchange of flats, provided Flat Nos.476 and 713 are not made subject matter of the said exchange. In case any of the two flats are included in mutual exchange/transfer, it would invite objections from third persons including Ms. Sushma Arora and Ms. Anita Chachra, who are members awaiting clearance and allotment. Ms. Sushma Arora is presently in occupation of Flat No.612, which has been allotted to Dr. Amit, who is in occupation of Flat No.476. Dr. Amit has to shift to Flat No.612.

5. Ms. Richa Kapoor, Advocate appearing for the petitioners states that allotment of flats in favour of Ms. Sushma Arora and Ms. Anita Chachra has not been approved by the Registrar, Cooperative Societies. She accordingly submits that there should not be any objection to including Flat No.713 in the inter se or group transfer.

5. We have considered the contentions raised by the learned counsel for the petitioner, but are unable to agree with the same. Flat No. 713, as per the draw of lots held on 11th July, 2014, is a vacant flat and has to be allotted to someone. The said flat obviously cannot be made a subject matter of an inter se group transfer or mutual exchange. If we allow the present petition, there may be objections from third persons, including those who are also praying for transfer or exchange. It will lead to litigation and problems for the society. Exchange is possible and should be allowed with consent and cannot be forced and compelled. We would, therefore, accept the position of neutrality adopted by the Society. If the Society accepts the request made by the petitioners, there would be protest and similar request from others, who are not before us. This is unacceptable. The prayers made by the petitioners are beyond the policy of inter se group or mutual transfer and hence, not acceptable.

7. However, the aforesaid order would not mean or bar two allottees or a group of allottees agreeing to an inter se group or mutual transfer. It is for this reason we have recorded the

statement made by Mr. Ajit Singh Gulia, who is present in the Court. It will be open to the petitioners or others to workout inter se or group transfer mutually acceptable to them, without including Flat Nos. 476 and 713. Accordingly, a proposal for the inter se or group transfer agreed upon by members may be put forward to the Society and the DDA, and if the same is found to be in accordance with the aforesaid directions, the Society and DDA will consider the proposal in accordance with law.

8. With the aforesaid observations and directions, the writ petition is disposed of.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

SEPTEMBER 01, 2016
NA