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

+ W.P.(C) 4493/2016 & C.M.Nos.18710-18711/2016

ALPANA BANERJEE

..... Petitioner

Through: Mr.Divyakant Lahoti and Ms.Ujjwala
Jeremiah, Advocates

versus

NEEL KAMAL CO-OPERATIVE GROUP HOUSING SOCIETY
LTD AND ANR. Respondents

Through: Mr.Rajiv Vig, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **18.05.2016**

1. Issue notice. Mr.Rajiv Vig, counsel for respondent no.1 accepts notice.
2. The petitioner's grievance is that despite full and final settlement recorded by the society she has been asked to pay Rs.484960.59 to the respondent society. The petitioner relies upon a no dues certificate and receipt issued on 26.12.2004 and on 19.12.2004 by the society to contend that the amounts borrowed by the writ petitioner's predecessor were repaid in full. Reliance is also placed upon the previous order of this Court in *Praveen Mahajan & Ors. vs. Registrar of Cooperative Societies & Ors.* in W.P.(C) 2363/2014 decided on 07.05.2015 as well as another document i.e. a

list of defaulters furnished in the course of execution proceedings. It is submitted that the list does not contain the petitioner's name. The respondent society appearing through counsel on advance notice contends that no dues certificates are inconclusive and that even in the previous writ petition i.e. ***Praveen Mahajan & Ors. vs. Registrar of Cooperative Societies & Ors.***, the Court had required due verification about the controversy as to whether that writ petitioner had in fact cleared his dues.

3. Apparently, the execution proceedings are pending before the recovery officer. The society contends that the petitioner's dues have been worked out according to its records after which the amount has been demanded. The society had urged that the petitioner had not produced any proof of payment. Having regard to the overall circumstances, it is open to the petitioner to appear before the recovery officer i.e. Assistant Collector in the pending execution proceedings. The said official shall go into the records and decide if the petitioner had paid amounts either fully or in part, towards satisfaction of the liability of the society towards loan repayable to Delhi Cooperative Housing Finance Corporation. In case, the petitioner approaches the recovery officer within two weeks, latter shall decide the dispute within four months. The recovery officer shall ensure that all parties i.e. the petitioner, the cooperative society and DCHFC are given appropriate hearing. He shall also consider and go into the relevant documents including the books of account etc. available with the society. In the meanwhile, no coercive action shall be taken for the recovery of the amounts in dispute.

4. The writ petition along with pending applications is disposed of in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MAY 18, 2016

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