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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4740/2015**

PRAMOD KUMAR GUPTA Petitioner
Through : Sh. Dushyant Parashar, Ms. Vandana
Nain and Sh. Manu Parashar, Advocates.

versus

SANGAM CO-OPERATIVE GROUP HOUSING SOCIETY & ANR
..... Respondents

Through : Sh. Ashish Tiwari, Advocate, for
Respondent No.1.
Dr. Anupam Kumar Mishra, for Sh. Santosh
Kumar Tripathi, ASC, GNCTD, for Respondent
No.2.

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

ORDER
% **13.01.2016**

1. The petitioner claims a direction for quashing an order of the Delhi Cooperative Tribunal dated 25.09.2014 [hereafter “the Tribunal”], which upheld the Award dated 15.07.2008 in respect of the dispute regarding to the membership of Sangam Cooperative Group Housing Society [hereafter “the Society”].
2. The facts are that the petitioner claimed that he was a member of the Society and had enrolled on 01.01.1984. At that time, he paid amounts towards the shares and membership fee and was allotted a certificate. Apparently, the management of the Society was placed under administration by the Govt. of NCT of Delhi [hereafter

“GNCTD”]. The petitioner refers to a list which contains his name as one of the candidates for Society’s election. He contends that in the said list, his name was at S.No.50 and that of his brother at S.No.49. It is contended on his behalf before the Arbitrator that despite repeated representations, the benefits of membership were not given by the Society.

3. The Arbitrator who considered the dispute between the petitioner and the Society noticed that the original records with respect to membership of Society were not available with that body. At the same time, given the nature of the record and copies of the documents filed in the arbitration proceedings, the Arbitrator felt that the benefit of doubt may have been given to the petitioner. However, relief was denied. The Arbitrator pertinently observed as follows in this regard:

“I have gone through the documents filed by the claimant and society and also heard the oral arguments of the society and the claimant. I find that the claimant produced copies of share certificate issued by society and receipt of payment made by him to the society to prove his claim of membership. On the other hand society has claimed that these documents are forged and fabricated. The membership can only be identified with the records maintained by the society such as Application Register, Application and affidavit filed by the applicant, Resolution of Managing Committee register and records of payment. But society has stated that these records are not available as same were not handed over by the previous Managing Committee in the year 1991. Thus the issue has been unresolved. But the next question is that whether benefit of doubt can be given to the claimant? I feel that the benefit of doubt can not be given to claimant because the claimant could have claimed his membership after 1991

when he was ignored by the society. It is not understood why he did not file arbitration case after 1991 or in the year 1998 when it became clear that he had been removed from membership of the society. The advice of the Asstt. Registrar Cooperative Societies in the year 2004 has been utilized by him to bring his delayed case into the period of limitation. In the meantime the members who have paid the cost of construction to the society have been allotted flats and the society has informed that there is no vacancy at the moment in the society. Thus the matter cannot be complicated further in the light of Section 75 of DCS Act 2003 which restricts the membership to the number of dwelling units available for allotment in the society.

Therefore, keeping in view the principles of equity, justice and good conscience, the claim of the claimant is not accepted.”

4. The petitioner appealed and contended that the Society did not ever dispute his membership and relied upon the list of 1991 which contained his name and also that he had sent a cheque for ₹5500/- on 22.07.1996. Besides these, he relied upon other letters. The Tribunal noticed that there was no Managing Committee at the relevant time when the petitioner claims to have become a member and that his membership was under a cloud. However, it was argued that the reasoning of the Arbitrator that the claim was barred by limitation was not justified. Learned counsel reiterated the submissions made before the appellate authority. He contended that given the nature of the dispute and the petitioner's ignorance of the law, the Court should take a lenient view and consider the merits of the case.

5. Section 70(4) of the Delhi Cooperative Societies Act, 2003 [hereafter “the 2003 Act”] prescribes the limitation applicable in such

cases. It refers to Section 70(1) of the 2003 Act which categorises four classes of disputes. The present dispute, i.e. between a member/person claiming through a member or past member and the Society on the other hand, is referred to in Section 70(4)(a)(ii) of the 2003 Act. The limitation period prescribed is six years. The petitioner in this case concededly had been representing to the Society. The last in the series of representations appear to be dated 06.02.1997, as is evident from the subsequent letter of 19.08.1998.

6. In these circumstances, the Court is of the opinion that there is no infirmity in the award of the Arbitrator that he approached and sought legal redress after the prescribed period of limitation had expired, the arbitration being invoked only in 2004. In the circumstances, no relief could have been granted to him.

7. For the above reasons, the writ petition is without merit. It is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JANUARY 13, 2016

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