

\$~5

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

+ W.P.(C) 7497/2013 & C.M.No.16038/2013

LOVELY CHOPRA Petitioner

Through: Mr.Rohit Kumar Modi, Adv.

versus

BATUKJI CO-OPERATIVE G/H SOCIETY LTD. & ANR.

..... Respondents

Through: Mr.Aditya Dewan and Ms.Himangini
Mehta, Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

%

13.05.2016

1. We have heard counsels for the parties.
2. The petitioner's grievance is that the Cooperative Societies Tribunal relied upon an expert's report without granting him an opportunity to cross-examine the said expert.
3. The dispute referred to arbitration was with regard to the genuineness of the petitioner's resignation in view of his submission that he was illegally been treated as a resigned member. The arbitrator rendered an award finding that the Society could not prove that the petitioner had addressed a valid resignation letter. He had *inter alia* relied upon paras of the CFSL report.
4. In the course of the appeal filed by the Society reliance was placed upon a handwriting expert's opinion with respect to the resignation letter in question and the petitioner's signatures upon it.

The tribunal relied upon the said report and held that the petitioner had, in fact, signed on the resignation letter and the Society could validly treated him as having resigned. The tribunal also considered the CFSL report which had been relied upon by the arbitrator.

5. It is argued that the petitioner was denied the opportunity to cross-examine the expert's report which was considered by the tribunal. Consequently it is submitted that the order is erroneous. Counsel for the Society urges firstly that the CFLS report itself was considered by the tribunal and that its order cannot be held to be unjustified in the circumstances. It is further submitted that the primary jurisdiction to decide on the correctness and the genuineness of documents is of the authorities under the Act.

6. Section 70 of the Delhi Cooperative Act vests exclusive jurisdiction upon the arbitrator to decide disputes as to the membership between individuals with respect to the cooperative society. In furtherance of such jurisdiction both the arbitrator and the appellate forum i.e. the tribunal have been vested with certain powers of the civil court. In this case, the arbitrator and the tribunal relied upon the CFSL reports to consider whether the resignation letter was genuine or not. In fact, the Society itself relied upon the CFSL report. In these circumstances, the Court is of the opinion that both the arbitrator and the tribunal have gone into the matter – relegating the petitioner to a suit would lead to considerable delay.

7. In these circumstances, the Court remits the matter for fresh examination of all the issues to the tribunal which shall accord an opportunity to the petitioner to cross-examine the expert whose report

was relied upon by the Society in the course of the proceedings before the cooperative tribunal. All the rights and contentions of the parties are reserved. The tribunal shall endeavour to complete its proceedings and render its decision within four months from today. Parties shall be present before the tribunal on 30.05.2016.

8. The appeal is allowed in the above terms.
9. Order dasti.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MAY 13, 2016

rb