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

+ **W.P.(C) 3969/2015 & CM No. 7085/2015**

CHOPRA COOP. GR. HOUSING SOCIETY LTD. Petitioner

Through: Mr. Rakesh Munjal, Sr. Advocate
alongwith Mr. Anil Kumar and Mr.
Mohd .Atif, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS Respondents

Through: Mr. Anuj Aggarwal, Addl. Standing
Counsel-GNCT of Delhi for R-1 &
R-2.
Mr. Sandeep Kumar, Advocate for
R-3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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16.02.2016

The grievance of the petitioner is with respect to the final award by the Arbitrator dated 12.11.2007. The dispute was referred for arbitration by the Registrar, Cooperative Societies vide order dated 22.06.2005. The final award declared that the claimant was member of the Cooperative Society and consequently entitled to all benefits drawn from that status. The petitioner/Society appealed to the Delhi Cooperative Tribunal. By an award dated 29.08.2011, the Tribunal finally disposed of that appeal. The Tribunal noticed the contentions, materials placed by the parties, the findings of the arbitrator as well as

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the issues which arose with its consideration. However, in the operative portion of its order-impugned in these proceedings-it is stated as follows:-

"8.0 THE FINDINGS AND DECISION OF THE BENCH

Keeping all the facts and circumstances and the provisions of the DCS Act Section 70 and DCS Rule 84(4) in view, the claimant we hold that respondent is prima facie a member, his membership status is under dispute, the respondent has submitted required documents to establish a prima facie dispute, since the issue of delay in sticking to the provision of Rule 89(1) of delay by violating dead line of three months which is deemed to be approved as no controversy was raised during the proceedings u/s 70 hearing (section 60 of the old Act). The cause of action was within time as per above section, therefore, there exists a dispute of membership, which require adjudication u/s 71 of the said Act.

In view above there is no infirmities in the above noted order to refer the dispute to Arbitration the Appeal is allowed and the matter is referred to u/s 71 for Arbitration. That the respondent had filed a claim petition under section 60, inter alia, claiming that he should be declared a valid and bona fide member of the appellant society. And the respondent claims that the claimant was not a member within the meaning of section 2(k) of the Act. This is the dispute this need to be examined. Hence the order is upheld and the appeal of the society is hereby rejected."

The Society did not take the matter further. Mr. Rakesh Munjal, learned Senior Counsel contended that the society received a further notice from the arbitrator in view of the observations made in the impugned order. While so, the respondent moved an execution proceeding urging that since the membership terms had been settled, he

ought to be granted all the benefits of the membership. At this stage, the society moved an application seeking review of the Tribunal's order. The review was declined and the initial order was confirmed in the review petition.

We have gone through the award of the Arbitrator and the Tribunal's order dated 29.08.2011. Whilst, the Arbitrator's findings are clear, inasmuch as those conclusions have been recorded in the light of the materials adduced, the Tribunal's order faithfully lists out the findings, rival contentions and further traces the essential points for decision. No final decision has been indicated in the order which merely records "*prima facie* observations" of the Tribunal, viz-a-viz the respondent's membership.

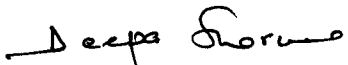
This Court is of the opinion that the impugned order cannot interfere with the status of the final order because it does not decide the rival contentions of the parties with regard to the respondent's essential claims- which was precisely an issue before the statutory appellate forum i.e. the Tribunal. In these circumstances, the impugned order cannot confer any right, however, it cannot be said to be determine the rights of the parties finally in an appeal. Consequently, we set it aside. Since the review order does not have standing of its own and is dependent on the basic order of the Tribunal dated 29.08.2011, that too is set aside. Parties are directed to be present before the Tribunal on 08.03.2016.

The Delhi Cooperative Tribunal is directed to consider the appeal at its earliest convenience and decide it in accordance with law expeditiously and in any event not later than four months.

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The writ petition is allowed in above terms.


S. RAVINDRA BHAT, J


DEEPA SHARMA, J

FEBRUARY 16, 2016

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