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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 8116/2014
UDAY VEER CHOPRA

..... Petitioner
Through Mr Abdesb Chaudhary, Mr Sanjit Kumar
and Mr Sri Manto Sen, Advs.

versus

REGISTRAR OF CO-OPERATIVE SOCIETIES & ANR.

..... Respondent
Through Mr Santosh Kr. Tripathi, ASC, for R1
Mr Saurabh Kansal and Ms Pallavi S.
Kansal, Advs. for R2

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 01.08.2016

The petitioner, Uday Veer Chopra, is a member of the Jhelum Arorvansh Cooperative Society Ltd. He has been allotted flat No. 601 and a covered car parking space in the basement.

The petitioner is aggrieved by the allotment of the said parking space in the basement. He relies on Resolution dated 26.03.2007 passed in the General Body Meeting to the effect that covered parking slots would be allotted on the basis of draw of lots. He had raised the said dispute which was referred to Arbitration by the Registrar of Cooperative Societies.

By the award dated 15.01.2013, the claim made by the petitioner was rejected by the Arbitrator, inter alia for the following reasons:

“7.1 *I have gone through the papers, heard both the parties and other members who turned up as supporters for both the parties. The Def. Society explained the rationale followed in the concept paper which is that those in the top floors have been given preference of parking slots in the stilt area in a sequential manner keeping in view the natural justice and welfare of all members of the society as it is generally believed that those having flats in upper floors are in a disadvantageous position considering the prevalent disproportionate market value of upper and lower floors and that at that stage nobody knew of the flats to be allotted to him in the draw of lots to be held on a subsequent date.*

- 7.2 *The Def. Society have provided photocopies of two working sheets with heading ‘ Parking Concept’ signed by eight members and another paper showing allocation in stilts area against flat Nos. The claimant objected to this stating that these are mere scribbling on photo papers. The Def. Society could not trace the originals from the society records. Four signatories to the parking concept papers were present during the second hearing and testified their signatures and veracity of the papers. One of the signatory who was present in the court remained Secretary in all the MCs from 1990-2010 and stated that the actions taken by the MCs are as per the decisions of the AGM dated 26.03.2007.*
- 7.3 *The dispute has arisen from the reading and interpretations of the words ‘ based on draw of lots’ in the AGM decision as ‘draw of lots’ by the claimant and in his application also he has written the words, ‘draw of lots’. This has created confusion and ambiguity. The specific reference made to the arbitrator is as to whether the society should hold draw of parking lots as per the policy decision taken by the General Body on 26.03.007.*
- 7.4 *Defence of the Def. Society in their reply and during hearings is fully supported by the MCs during 2007 and subsequent thereto. There is no doubt that the General Body decision of 26.03.2007 has been rightly complied with and there is no need to change it. Moreover, the parking allotments have been done in a uniform manner leaving no scope for arbitrators and nepotism. The claimant also could not cite a single instance of arbitrariness and / or nepotism. So the claim is devoid of merit.”*

The aforesaid award has been upheld by the Delhi Cooperative Tribunal vide order dated 15.01.2014. The review application filed by the appellant was also dismissed on 06.03.2014.

The primary contention of the petitioner is that in the General Body Meeting held on 18.03.2007, it was decided that one covered parking space in the stilt or basement area would be allotted by way of draw of lots. However, the covered parking space was not allotted based on the draw of lots.

We regret our inability to interfere with the impugned award and subsequent orders passed by the Delhi Cooperative Tribunal. The reasoning given in the Award is cogent and relevant.

In all, a total of 116 flats with corresponding covered parking space were

constructed. On 26.03.2007, a resolution was passed by the General Body that each member would be provided covered parking space in the stilt or basement area based upon a draw of lots.

The managing committee thereafter identified the covered parking space and allocated covered parking space corresponding to each flat. Flats located on the upper floors were given parking under the stilt and those allocated the lower floors were given parking in the basement. This exercise was undertaken for each block/tower. A draw of lots took place in 2009 and a specified flat was allotted to each member. The corresponding covered parking space as demarcated earlier was allotted to each allottee depending upon the flat allotted to him / her in the draw of lots. Subsequently, physical demarcation identifying the exact location of the covered parking space in the stilt or basement, was done by the managing committee.

The respondent cooperative society, alongwith the counter affidavit has filed the parking scheme and details of the covered parking space allotted to each flat owner. Members allotted higher floors were given covered parking under the stilts and those allotted lower floors have been given parking in the basement. The desire and attempt was to accommodate maximum number of persons in the stilts. Depending upon the number of car parking spaces available in the stilts, allotments have been made in each block/tower. Therefore, in some blocks, members residing on the same floor, as the petitioner, have been allotted parking spaces in the stilt area and not in the basement. The petitioner has not been discriminated.

The very essence of cooperative is cooperation, adjustment and acceptance of the view taken by consensus. This is not a case where there has been violation of an Act, Rule or the Byelaws. The Cooperative Society has acted in a just and fair manner and the Award takes note of relevant facts. The concurrent findings do not require interference.

The writ petition is dismissed.

No orders as to costs.

SANJIV KHANNA, J

SUNITA GUPTA, J

AUGUST 01, 2016/*rd*