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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9114/2016**
GHALIB MEMORIAL COOPERATIVE GROUP HOUSING
SOCIETY LTD.

..... Petitioner

Through Mr. Rajiv Vig, Adv.

versus

FINANCIAL COMMISSIONER OF DELHI & ORS

..... Respondents

Through Mr. (Name not given), Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% **04.10.2016**

CM No.36891/2016

Exemption allowed subject to all just exceptions.

The application is disposed of.

W.P.(C) 9114/2016 & CM No.36890/2016

1. The petitioner- Cooperative Society has filed the present writ petition impugning the order dated 23.08.2016 passed by respondent No. 1-the Financial Commissioner in revision petition filed by respondent No. 5-Ms. Preety Koli.

2. We do not find any reasons or ground to interfere with the finding recorded by respondent No. 1-the Financial Commissioner that respondent No. 5-Ms. Preety Koli has *locus standi* to file

objections to the execution petition. The said finding only permits respondent No. 5-Ms. Preety Koli to raise her objections. This does not mean that the objections raised by respondent No. 5-Ms. Preety Koli have been accepted. Whether Ms. Preety Koli was a *bona fide* purchaser or not, or the effect of Section 91 and 83(6) of the Delhi Cooperative Societies Act, 2003 has not been determined and decided. Respondent No. 5 Ms. Preety Koli has relied on a certificate of payment of Rs. 80,000/- to state that there were no outstanding loan dues. This fact is disputed by the petitioner-Cooperative Society who states that the certificate is forged and fabricated. These are issues and matters relating to merits and the said aspects will be examined after respondent No. 5-Ms. Preety Koli is permitted to raise this issue in her objections.

3. Learned counsel for the petitioner states that the execution proceedings are pending before respondent No. 4-Mr. Ravi Kumar Jain, Assistant Collector, Grade I. The power to execute has been conferred on the said Assistant Collector by a Gazette notification. The order dated 28.04.2016 under challenge before the Financial Commissioner was passed by respondent No. 4 Mr. Ravi Kumar Jain, Assistant Collector, Grade I. It is submitted that the impugned order dated 23.08.2016, while setting aside the order dated 28.04.2016, remands and transfers the execution proceedings to respondent No.2-Registrar, Co-operative Societies. Direction has been given to the respondent No. 2 to consider all documents, averments and arguments raised by respondent No. 5-Ms. Preety Koli, and after verifying all the facts including the documents seized by the Economic Offence Wing,

Delhi Police, pass an appropriate order. The learned counsel for the petitioner Co-operative Society states that this would mean and imply that the proceedings stand transferred from respondent No. 4-Assistant Collector, Grade-I to the respondent No. 2-Registrar, Co-operative Societies.

4. However, learned counsel for the petitioner accepts that this plea has not been raised in the writ petition. He also accepts that the definition of Registrar in Section 2(w) of the Delhi Cooperative Societies Act, 2003, means ‘a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar. The argument appears to be an afterthought and possibly farfetched as this does not appear to be the mandate of the order of the Financial Commissioner.

6. In the given circumstances, we are not inclined to comment on the argument. We leave the aforesaid question open and the petitioner is granted the liberty to raise the issue in a review petition or approach this Court by way of a fresh petition, if required and necessary.

7. In view and recording the above, the writ petition is dismissed. There will be no order as to costs.

SANJIV KHANNA, J

SUNITA GUPTA, J

OCTOBER 04, 2016

VLD