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

\+ W.P.(C) 9301/2014 and CM No. 21073/2014

RUCHI SALWAN ..... Petitioner

Through: Ms Neha Kapoor, Adv. along with petitioner in person .

versus

PANCHDEEP COOP. GROUP HOUSING SOCIETY LTD. & ORS ..... Respondents

Through: Mr Sandeep Kumar, Adv. for R-1
Ms Aanchal Dhingra, Adv. for R-2
Mr S.K. Kaushik, Adv. for R-5

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

O R D E R

% **22.03.2016**

The present petition is directed against an order of the Delhi Cooperative Society dismissing an appeal. The Tribunal declined the challenge to the award of an Arbitrator which is rendered on 09.02.2004.

The petitioner's mother, late Rama Arora, was a member of the respondent-society. She was the beneficiary of a DCHFC loan, to repay which the security of her property was encumbered. The Society had claimed that amounts payable by the late Rama Arora had to be recovered. Rama Arora expired on 16.06.1995. Claiming that the loan liability of the deceased member was not discharged, the

Society claimed unpaid amount in arbitration. The appellant had participated in the arbitration proceedings apparently after a while; there was no contest. In the circumstances, an award was made on 09.02.2004. The Society had not initiated execution proceedings; when it did, the petitioner approached the Tribunal on the appeal directed against the award. The Tribunal rejected the appeal by the impugned order.

Ms Kapoor alleges that the Tribunal overlooked the fact that the petitioner had intimated about the death of her mother well in time and was entitled to claim amounts in terms of the policy issued by the Life Insurance Corporation which would have covered substantial portion of the liability alleged against the deceased Rama Arora. It was submitted that the petitioner had intimated the Society immediately on the death of Rama Arora; thereupon the onus was upon the Society to ensure that the amounts were retrieved from the Life Insurance Corporation and adjusted against the outstandings. This, however, did not happen. Learned counsel relied upon in an RTI response to say that the LIC claims were settled only on 03.02.2004 just before the award was made. The award considered all the submissions of the parties, including the plea that amounts to be received and adjusted. The Arbitrator was conscious of the fact that certain amounts might be paid or might have been deposited on account of the liabilities of late Rama Arora as is evident from the following observations:

> *"Any payment made by the Defendants to the society or directly to DCHFC Ltd. not accounted*

for in the books of the society shall be adjusted by the society."

A reply dated 23.09.2014 to the RTI query states that Society had furnished the death claim form on 11.08.2003 with DCHFC which was furnished to the Life Insurance Corporation for settlement and the claim amount was settled at Rs.88,292/- by LIC on 03.02.2004. It is, therefore, evident that the claim under the policy could be settled by LIC only after the Society received the fully filled up particulars and form from the petitioner which it did, on 06.8.2003. In these circumstances, the Arbitrator was alive to the fact that some amounts could have been paid but not reflected in the books of the Society; therefore, the award made allowance for it. It goes without saying that the said amount of Rs.88,292/- had to be adjusted with respect to the liabilities that the petitioner had to discharge to satisfaction of the award. In these circumstances, the questions sought to be urged are clearly factual and pertain to calculations to be made as to whether the petitioner's contentions with respect to the rule of appropriation applied are in order. These are hardly matters which can be gone into in these proceedings under Article 226 of the Constitution.

The writ petition is accordingly dismissed.

Order *dasti.*

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MARCH 22, 2016/bg