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

+ W.P.(C) 11285/2016

SANJEEV BINDAL & ANR. Petitioners

Through Mr. R.S. Kela, Advocate

versus

BAMCEF CO-OPERATIVE GROUP HOUSING Respondents

Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **29.11.2016**

1. The dispute raised is factual.
2. The petitioners Sanjeev Bindal and Ritu Bindal were members of BAMCEF Cooperative Group Housing Society Limited, the respondents herein, and were allotted a flat.
3. The petitioners had sold the flat to Smt. Kela Wati vide sale deed dated 27.01.2011.
4. Six months thereafter, vide by claim petition dated 01.06.2011, the petitioners raised disputes and had sought refund from the respondent-Cooperative Society of the following:-
 - (a) Rs. 40,000/- on account of double payment
 - (b) Rs.69,429/- on account of illegal demand for excess area i.e. area wise allotment.
4. The claims were referred to arbitration and were dismissed vide the Award dated 21.02.2012 The appeal filed by the petitioners was

dismissed by the Cooperative Tribunal vide order dated 16.10.2014. The petitioners have now approached this court by filing the present writ petition.

5. Two receipts of Rs. 40,000 each were produced before the Arbitrator but the petitioners had failed to establish double payment as copy of the passbook was never produced. The respondent-Cooperative Society on the other hand had produced evidence in the form of their records that a single cheque of Rs.40,000 had been encashed. Encashment of the two cheques was not established.

6. The second issue raised regarding the alleged excess payment of Rs. 69,429/- towards additional area of the allotted flat, was also rejected by the arbitrator. The contention of the petitioner that the General Body had not passed a resolution or had withdrawn the demand was rejected. The counsel for the respondent-Cooperative Society had relied on the resolution dated 26.02.2012 of the General Body Meeting for payment towards additional area, whereas the petitioner has relied upon the Minutes of Meeting of the Management Committee dated 10.09.2006. The respondent-Cooperative Society had rebutted the contention and denied that the Management Committee had withdrawn the area wise payment demand. 70 out of 90 members have paid the said amount.

7. As noted above, the dispute is factual. The finding recorded in the award and the Tribunal are plausible and supported by reasons. They have taken a reasonable view.

8. We do not find any reason to interfere with the award and the appellate order.

9. Accordingly, the writ petition is dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

NOVEMBER 29, 2016
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