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

+ W.P.(C) 6075/2015

RAJESH KHANNA

..... Petitioner

Through Mr. Sandeep Sharma and Ms.
Risha Mittal, Advocates.

versus

DELHI CO-OPERATIVE HOUSING FINANCE
CORPORATION LTD. & ORS

..... Respondent

Through Mr. Sunil Sabharwal and Mr.
Chirag Babbar, Advocates for R-1.
Mr. Peeyosh Kalra, Additional Standing
Counsel for GNCTD.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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03.08.2016

The petitioner, Rajesh Khanna, has approached this Court as the Recovery Officer-Assistant Collector had issued summons dated 04.06.2015 for sealing his flat and its public auction in accordance with the provisions of Delhi Cooperative Societies Act, 1972 read with Delhi Cooperative Societies Act, 2003 and the relevant provisions of Land Revenue Acts. It is claimed that Rs.18,00,180.70 plus Rs.1,42,924/- as on 31.12.2011 were due

and payable by the petitioner. The said payment was required to be made on or before 24.06.2015.

2. Pursuant to the interim order dated 26.06.2015 passed in this petition, the petitioner had deposited Rs.7,00,000/- on 25.07.2015.

3. The petitioner submits that during the course of recovery proceedings, he had earlier paid Rs.4,00,000-5,00,000/-. Thus, the petitioner has deposited Rs. 11,00,000-12,00,000/-.

4. The petitioner has disputed the computation of the amount payable by him as his share under the Award dated 31.07.2001 passed against Veer Puru CGHS Ltd. This Award against the Cooperative Society was for Rs.1,95,18,000/- and interest @ 14.25% plus 2.5% per annum.

5. The issue with regard to the quantum of the amount payable by the petitioner was pending before the Recovery Officer/Executing Court and his order dated 24.09.2012 has been challenged by the petitioner and others, before the Financial Commissioner. The Financial Commissioner had then passed the interim order dated 4.10.2013 which, it appears, would not cover

or protect the petitioner, for unlike others, he had not initiated arbitration proceedings. Subsequently, the Recovery Officer passed a detailed order dated 12.01.2015, quantifying the amount payable. The petitioner has filed an application before the Financial Commissioner for bringing the said order on record and has also sought stay.

7. The contention of the respondents is that the petitioner had earlier wrongly claimed benefit and protection of the interim order dated 04.10.2013 passed by the Financial Commissioner by making a misstatement that he had initiated arbitration proceedings, which were pending

8. Be that as it may, the issue involved before this Court is rather limited as substantive proceedings are pending before the Financial Commissioner and the Recovery Officer. Having noticed the aforesaid facts and also the quantum of demand of Rs.18,00,180.70 and Rs 1,42,924/- as on 31.12.2011, we direct the petitioner to deposit a further amount of Rs.6,00,000/- with DGHS within a period of one month. The said deposit would be without prejudice to the rights and contentions of the parties and subject to

further orders, which may be passed by the Financial Commissioner.

9. We would request the Financial Commissioner to take up the appeal preferred by the petitioner and others and dispose of the same expeditiously. We clarify that we have not expressed any opinion on merits and also on whether or not the order dated 12.01.2015 can be made the subject matter of challenge by way of an application. In the meanwhile, and subject to the deposit of Rs.6,00,000, coercive steps for recovery will not be taken without the prior permission of the Financial Commissioner or decision of the proceedings pending before him. We clarify that the directions given above can be vacated and modified by the Financial Commissioner.

The writ petition is disposed of.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

AUGUST 03, 2016
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