

\$~16

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 9689/2015 & CM 37179/2016

LAKSHMI KRISHNAN & ORS.

..... Petitioner

Through

Mr D.K. Rustagi, Ms Medha Arya and
Mr Manav Bansal, Advs.

versus

NCT OF DELHI & ORS.

..... Respondent

Through

Mr Anuj Aggarwal, ASC for GNCTD
with Mr Dev Niti Jain, Advs. for R-3 &
4

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

%

04.10.2016

1. In the amended writ petition, following prayers have been made:

“(a) *Issue a Writ of Mandamus or any other Writ of like nature for :-*

(i) *The Audit of the society be done from an independent impartial Government agency either in control of Central Government or State Government appointed by this Hon’ble Court as the defalcation and embezzlement in the case as per the understanding of the Petitioners is of more than 10 Crores of rupees.*

(ii) *direct the Respondent No.2 to consider the same material and complaints and initiate immediately appropriate action under section 37 of the Delhi Cooperative Societies Act for supersession of the present committee which if allowed to function will scuttle all legal process including the effective implementation of various directions and the conduct of the special audit already approved by the Respondent No.2.*

(iii) *direct respondent No.2 to initiate enquiry under Section 61/62 of the Delhi Cooperative Societies Act for carrying out massive irregularities taken place and excess payment made and diverted the same which has already been explained in the complaints as well as in the contents of the present writ petition in a time-bound fashion in order to meet the ends of justice.*

(iv) *Pass any other or further order(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”*

2. With the consent of the counsel for the parties and as agreed, we are inclined to dispose of the present writ petition on the following terms which are also supported with reasons noted and recorded below.

3. As far as prayer (i) is concerned, the same has become infructuous for the reason that special audit was directed and has been conducted vide report dated 12.09.2016. A copy of special audit report has been placed on record.

4. Learned counsel for the petitioners and the respondent no.4 are at variance on the effect of the said report. This aspect is to be examined by the Registrar, Cooperative Societies in terms of prayer clauses (ii) and (iii). As far as prayer (ii) and (iii) are concerned, learned counsel for the respondent no.4 states that he would have no objection to the said examination for that they have done nothing wrong or incorrect. Learned counsel for the petitioners states that he would have no difficulty in case the Registrar, Cooperative Societies or any other officer nominated by him, other than the person with whom they have some reservations, examines the matter. Learned counsel appearing for the Registrar, Cooperative Societies states that this is acceptable and the Registrar, Cooperative Societies will himself personally or an officer nominated by him (other than the person against whom the petitioners have reservations) would examine the matter. He, however, states that this statement is being made to settle and foreclose all issues and debate, without accepting the allegations or assertions against that officer.

5. Without expressing any opinion, we would take the said statements on record and dispose of the present writ petition clarifying that this Court has not expressed any opinion on merits of the case.

6. We hope and trust that the Registrar, Cooperative Societies or an officer nominated by him, keeping in view the urgency in the matter, will take up the issue and bestow required consideration on whether or not any action is required to be initiated under Section 37 or Section 61/62. This would be decided within a period of 3 months from today. The period of 3 months should be treated as an outer limit. A decision is taken in a shorter period, would be much appreciated. If required and necessary, hearing may be given to the petitioners, the office bearers or third parties.

7. Learned counsel for the petitioners has submitted that Special Annual General Meeting was held on 30.09.2016 and some of the office bearers, including the fourth respondent, have been removed. Learned counsel for the respondent no.4 has seriously disputed the said submission and states that the said meeting itself was illegal and the resolutions passed therein are non-est. We are not commenting on the said issue as they have not been pleaded and mentioned in the present writ petition. However, the Registrar, Cooperative Societies may examine the said aspect. This is an additional reason and ground why we have fixed and specified the time limit of three months.

8. The writ petition is disposed of in aforesaid terms.

9. Pending CM is also disposed of.

10. *Dasti.*

SANJIV KHANNA, J

SUNITA GUPTA, J

OCTOBER 04, 2016/rd