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

+ **CONT.CAS(C) 1032/2015 & CM Appls. 32576, 32577/2015**

RAJENDER SINGH & ORS Petitioners

Through: Mr. S.P. Mehta, Adv.

versus

ALKA DIWAN Respondent

Through: Mr. Peeyoosh Kalra, ASC

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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06.12.2016

The present contempt petition has been filed alleging wilful disobedience of the order dated 23rd September, 2015 passed in WP(C) 8809/2015 whereby prayer (i) of the aforesaid writ petition was dismissed as withdrawn and the other prayers, namely, prayers (ii) and (iii) were directed to be treated as a representation by respondent No. 1 to be disposed of within a period of six weeks.

Prayers (ii) and (iii) of the writ petition are reproduced hereinbelow:-

(ii) Pass a writ/direction to the Respondent No. 1 to appoint an administrator under Section 37 of the DCS Act with the specific instructions to take all the records of the society from the respondent No. 3 to 5 and get the same audited and take appropriate criminal actions in accordance with law.

(iii) Pass a writ/direction to the Respondent No. 1 to pass appropriate orders for attachment of flats of the Respondent No. 3 to 5 till the completion of the total audit and settlement of all the dues of the society by recovery of embezzled amount from Respondent No. 3 to 5."

Learned counsel for the petitioners states that prayers (ii) and (iii) of the petitioners' writ petition have not been considered inasmuch as though the petitioners had sought appointment of an Administrator under Section 37 of the Delhi Cooperative Societies Act, 2013 with authority to take over records, yet the said prayer was not considered.

However, in the reply affidavit, it is stated that in compliance with the directions passed by this Court, the Administrator was appointed by the office of the Registrar and the Administrator has already conducted the election in the society on 29th November, 2015 after following the due process of law.

As far as prayer (iii) is concerned, it is stated in the reply affidavit that there is no provision under the Delhi Cooperative Societies Act and Rules whereby a direction can be passed for attachment of flats of respondent Nos. 3 to 5 till the completion of audit.

In the opinion of this Court, there is no wilful disobedience of the Court order as the prayers (ii) and (iii) have been considered by the respondent and an administrator had been appointed.

If the petitioners are aggrieved by the decision of the Registrar, the petitioners are at liberty to challenge the same. However, this

Court is of the view that no case of wilful disobedience of the order dated 23rd September, 2015 is made out. Accordingly, the present contempt petition and applications, being bereft of merits, are dismissed and the notices issued are discharged.

MANMOHAN, J

DECEMBER 06, 2016
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