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

+ W.P.(C) 453/2017 & CM No.2149/2017

ASHA SETHI

..... Petitioner

Through: Mr. Ashok Mathur & Ms. Nidhi
Aggarwal, Advocates

versus

THE REGISTRAR CO OPERATIVE SOCIETIES AND ORS

..... Respondents

Through: Mr. Vinod Kumar, Advocate for
GNCTD
Mr. S.K. Kaushik, Advocate for
respondent No.3

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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27.01.2017

Reliance placed by the petitioner on the decision in the case of ***Meenu***

Tomar v. Registrar Cooperative Societies & Ors., 230(2016) DLT 479 (DB)

is entirely misplaced. In the said case, the issue had arisen whether even non-defaulting members can be compelled and forced to pay the dues of the cooperative societies, in view of the Individualisation Scheme. In the present case, the contention of the cooperative societies is that the petitioner herein is a defaulter and the recoveries are not being made from the petitioner by

applying the Individualisation Scheme. This judgment, therefore, does not assist and help the petitioner.

On the question whether or not there was any default and what would be the effect of the Award dated 23.8.2003 in the case of Mayur Bagh CGHS Ltd. v. Smt. L.M. Suri (now represented by Asha Sethi) and the appellate order dated 27.2.2007, are aspects would have to be examined in the proceedings which are pending before the Recovery Officer. We also clarify that the petitioner has raised and questioned the jurisdiction of the Recovery Officer as there is no specific Award against the petitioner and on other grounds. These are the issues which will have to be dealt with and examined by the Recovery Officer and as of now there is no adverse order or finding against the petitioner.

The petitioner has also raised the contention that on payment by the erstwhile member, no-objection certificates was issued. Again, this is an aspect which would have to be examined and gone into before the Recovery Officer or in appropriate proceedings.

We are not inclined to exercise extraordinary writ jurisdiction, examine factual disputes and quash any proceedings when the issues and questions, as raised, are pending consideration and no order has been passed.

The Cooperative Societies Act and Rules, enacted and framed, are for examining and adjudicating disputes and differences between the members of Cooperative Society etc. The writ court should not be made the court of first instance.

The writ petition, being premature, is accordingly dismissed, without expressing any opinion on the merits. CM No.2149/2017 is also dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JANUARY 27, 2017

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