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

+ **W.P.(C) 2186/2015**

S N BALASUBRAMANIAN

..... Petitioner

Through: Mr. B.N. Singhvi, Advocate along
with Mr. Ankur Sethia, Advocate.

versus

GREEN VALLEY CGHS LTD. & ORS.

..... Respondents

Through: Mr. Naushad Ahmed Khan, ASC,
GNCT along with Ms. Divyani
Sehgal, Advocate for R-3/RCS.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **08.09.2017**

1. The petitioner who is a member of the respondent No.1/ Society has filed the present petition being aggrieved by a letter dated 29.01.2014, issued by the respondent No. 3/RCS dismissing a complaint received from one Sh. Bijay Kumar Sahoo who objected to the approval for grant of membership to the respondent No. 2 in respect of flat no. J -301.

2. When the petitioner was neither a complainant before the RCS, nor a party to any proceedings that has resulted in the issuance of the impugned letter dated 29.01.2014, we have enquired from learned counsel for the petitioner as to how would the present petition be maintainable directly in this

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Court.

3. Learned counsel for the petitioner fairly states that a specific averment has been made in para 11 of the petition to the effect that the petitioner was a member of the earlier Managing Committee of the respondent No. 1/Society and though an appeal ought to have been filed by the respondent No. 1/Society against the decision conveyed vide letter dated 29.01.2014, approving membership to the respondent No. 2, no such appeal has been filed. Hence, the present petition.

4. Even if that be the case, the petitioner is always at liberty, to raise a dispute against the respondent No. 1/Society with regard to the approval of membership granted to the respondent No. 2 by the respondent No. 1/RCS, under the Delhi Cooperative Society Act. If such a dispute is raised, it would require adjudication only after examination of the documents of allotment in favour of the respondent No. 2 and the affidavits they would be filed by the parties.

6. However, this exercise cannot be undertaken in a petition filed under Article 226 of the Constitution of India, by invoking the powers of judicial review of this Court.

7. Accordingly, the present petition is disposed of with liberty granted to the petitioner to raise a dispute with the respondent No. 1/Society in respect of the approval granting membership to the respondent No. 2 before the appropriate forum, in accordance with law.

8. As an interim order dated 09.03.2015 was passed in the present case, calling upon the parties to maintain *status qua* in respect of the right, title and interest in the subject flat, it is directed that the said order shall continue to

operate for the period of four weeks, within which, the petitioner is expected to seek legal recourse.

9. The petition is disposed of while leaving the parties to bear their own expenses.

HIMA KOHLI, J

DEEPA SHARMA, J

SEPTEMBER 08, 2017

ss

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