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

+ W.P.(C) 4361/2017& C.M. No. 19015/2017

ALPANA BANERJEE

..... Petitioner

Through: Mr. Divyakant Lahoti with Ms.
Amrita Grover and Mr. Parikshit
Ahuja, Advs.

versus

NEEL KAMAL CO OPERATIVE GROUP HOUSING SOCIETY
LTD AND ANR

..... Respondent

Through: Mr. Rajiv Vis, Adv. for R-1
Mr. S.K. Kaushik, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER
01.11.2018

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The petitioner has preferred this writ petition to assail the order dated 01.03.2017 passed by the Assistant Collector Grade I in Execution case No. 526/2008-2009/1664, preferred by the respondent – Delhi Co-operative Housing Finance Corp. Ltd.(DCHFCL). It appears that the respondent DCHFCL obtained an award against the Neel Kamal Coop. G/H Society Ltd. as well as the individual members of the said co-operative society, in respect of the loan granted by the DCHFCL to the said co-operative society, which was availed of for the construction of the flats by the said members. The execution proceedings were, thereafter, initiated to affect the recovery of the awarded amount from the individual members who were liable for the

same.

It appears that the petitioner had earlier preferred W.P. (C) No. 4493/2016 with the grievance that despite his making full and final settlement with the housing co-operative society, he has been asked to pay Rs. 4,84,960.59/-.

After hearing the counsels, the Division Bench directed that since Execution proceedings were pending before the Recovery Officer, the dues of the petitioner, if any, would be worked out on the basis of the records of the Housing Co-operative Society by the Recovery Officer i.e. Assistant Collector. The recovery officer was directed to consider and look into the relevant documents, including the books of account etc. available with the society. In pursuance of the said direction, the impugned order could be passed.

A perusal of the impugned order shows that the same is not a speaking order. It does not reflect upon the manner in which the Recovery Officer has computed the liability of the petitioner at Rs. 3,35,344/- as on 31.12.2016. The Recovery Officer should have passed a more detailed order and the breakup of the amounts due and the heads under which the same are claimed to be due, should have been clearly indicated. He should have also indicated the amounts that the petitioner has paid, in respect whereof credit has been given to him at the relevant points of time. The computation of the interest element should also have been reflected.

The impugned order does not reflect the application of mind by the Recovery Officer to all these aspects, and more. Consequently, we set aside the impugned order and remand the case back to the Assistant Collector Grade I to pass a more detailed order after examination of the records and

accounts.

In view of the special circumstances of this case, counsel for the respondent – DHCFC has offered that a Chartered Accountant may be appointed to examine the accounts of the society in relation to the petitioner, whose report may be placed before the Assistant Collector Grade I for his consideration.

Since the matter involves an accounting exercise, we permit the Assistant Collector to take the assistance of a qualified Chartered Accountant for arriving at the amount due from the petitioner, if any.

The parties shall appear before the Assistant Collector Grade I on 19.11.2018. This order shall be communicated by the Registry to the concerned Assistant Collector Grade I.

In the meantime, no coercive action shall be taken against the petitioner

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 01, 2018

N.Khanna