

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

Reserved on: 06.07.2018
Pronounced on: 29.10.2018

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+ **W.P.(C) 9673/2017, C.M. APPL. 39388/2017 & 22496/2018**

ECIL CGHS LTD.Petitioner
Through: Sh. T.K.A. Padmanabhan, Advocate.

Versus

LT. GOVERNOR OF THE NCT OF DELHI AND ANR. ..Respondents
Through: Sh. Sachin Nahar, Advocate, for Respondent No.1.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A.K. CHAWLA

MR. JUSTICE S. RAVINDRA BHAT

1. The petitioner, a co-operative housing society (hereafter "ECIL") impugns an order of the Delhi Co-operative Tribunal (hereafter "DCT") New Delhi, dated 24.04.2017, in Appeal No.93/2016/DCT and seeks a declaration that Rule 99(2) of the Delhi Cooperative Societies Rules, 2007 (hereinafter "the Co-operative Society Rules") is *ultra vires* Section 86 of the Delhi Cooperative Societies Act, 2003 (hereafter "the Act"). The first respondent is the Govt of NCT of Delhi (hereafter "NCT").

2. The brief facts are that in 2002, the member (hereafter "the member") was handed over possession – after allotment, of Flat No. B-63 in ECIL upon payment of the required sum to it. The member was making the payments to the society, including maintenance and ground rent until 2009; since 06.05.2009 the member failed to pay the bills raised by the ECIL towards maintenance charges, electricity charges and water charges, some of which

were allegedly due to ECIL since 2003. Aggrieved by the omission of the member to pay ECIL's dues, it approached the Registrar of Co-operative Societies (hereinafter "RCS") under Section 70 of the Act, cumulatively claiming a sum of ₹2,32,267/-. Subsequently the dispute was referred to arbitration by the Registrar under Section 71 of the Act. Summons were issued for 08.06.2009, 15.06.2009 and 22.06.2009 to member; he did not appear and was proceeded *ex-parte*.

3. The learned Arbitrator, by award dated 02.08.2009 allowed a sum of ₹ 80,205 comprising unpaid maintenance charges and ground rent, to be paid by the member within one month, failing which interest at the rate of 10% was to be levied till the date of final payment. When notified of the award, the member addressed letter to ECIL dated 05.08.2009 claiming that he had already been charged excessively for the construction charges, land rent, the installation of grill gates and towards the sinking fund, cumulatively amounting to a sum of ₹83,250/- by ECIL, which he claimed ought to be set-off against the sum awarded by the learned arbitrator. ECIL denied these claims and reiterated its claim under the award rendered by the arbitrator in their reply by letter dated 16.08.2009. Additionally, the member appears to have approached the Consumer Disputes Redressal Forum-VII with these grievances, which eventually dismissed the complaint by Order dated 07.06.2011.

4. ECIL thereafter sent three notices of demand (on 22.10.2013, 22.11.2013 and 22.12.2013) by registered post to the member. By emails dated 25.12.2013 and 27.12.2013, he expressed his intention to request for a hearing before the co-operative society, which was granted to him on 12.01.2014. During the hearing, as recorded in the minutes of ECIL's Management Committee meeting dated 26.01.2014, the member made no written submissions and orally refused to pay the claimed sum. The Management

Committee of ECIL thereafter, on 26.01.2014 passed a resolution expelling the member on account of being a persisting defaulter under Section 86 of the Act. That resolution together with the minutes of the meeting was forwarded to the RCS for approval under Section 86(2) of the Act on 10.02.2014. The RCS by letter dated 29.05.2014 pointed to certain deficiencies regarding the Societies' compliance with Section 86 of the Act and Rule 99 of the Co-operative Society Rules. By its response, ECIL disputed that any such deficiencies existed. The RCS did not respond to ECIL's stand. Upon the lapse of the statutorily defined period of 180 days, ECIL, considering the proposal's "deemed approval" under Section 86(3) of the Act, sent an expulsion notice to the Respondent No. 2 on 19.08.2014.

5. The member appealed against the expulsion notice before the Delhi Co-operative Societies Tribunal by appeal No.143/2015 under Section 86(4) of the Act. The learned Tribunal by order dated 07.05.2015 quashed the notice on account of the fact that the deficiencies pointed out by the RCS through letter dated 29.05.2014 was not cured by the response of ECIL dated 14.06.2014 and that the proposal could not have been deemed to be approved under Section 86. It was further observed that there were irregularities in calculating the period of 180 days before a proposal may be deemed to be approved under Section 86(3) of the Act. ECIL moved a review petition; that too was rejected by the Tribunal which however, noted that it would be open to ECIL to bring up the issue of whether there actually were deficiencies (as pointed out by the RCS in letter dated 29.05.2014) before the RCS and have the matter decided on merits and the expulsion proposal be reconsidered by the RCS if submitted within 180 days.

6. Accordingly, the expulsion proposal dated 10.02.2013 was once again submitted to the RCS for consideration on 15.06.2015 by the registered post. The proposal was admitted by the learned Registrar and the parties were heard

on 10.12.2015. By order dated 01.04.2016, the Registrar rejected the expulsion proposal; he stated that instead ECIL should apply for recovery of the amounts, by applying for a certificate under Section 84 of the Act instead of directly proceeding with considering the member's expulsion under Section 86 of the Act. This, in the learned Registrar's opinion, was the appropriate process in light of the claim raised by the member that ECIL owed him outstanding dues owing to the overcharging by ECIL. Additionally, it was recommended that arbitration proceedings should be instituted by ECIL in order to resolve the dispute between the parties concerning the overcharging. In ECIL's appeal, the Tribunal upheld the decision of the Special Registrar. However, the reasons recorded by the Tribunal in its judgment dated 24.04.2017 were on a different basis. The Tribunal dismissed the appeal filed by the Petitioner Society on account of its failure to comply with the notice requirements under Section 86 of the Act, read with Rule 99 of the Co-operative Society Rules. The Tribunal observed thus:

“28. The appellant society claims to have sent three registered notices for proposed expulsion of the respondent but have not placed on record any acknowledgement to establish that the notices have been actually served on the respondent. During the arguments, respondent has pointed out that the photocopy of postal stamps of the 2nd & 3rd notices shows Dwarka, Sector-6 with PIN No. 110075 whereas in the photocopy of the postal stamp of the first notice the PIN No. has been shown as 110001. The address of the respondent has been shown as A-402 New Cosmopolitan CGHS, Plot No.33, Sector-10, Dwarka, New Delhi-110075.

29. As per Rule 99(2) of the Rules, there is specific requirement that subject to provisions of Section 86 of the Act a Cooperative housing society, which has been allotted land, before expelling a member shall give final opportunity by publishing the notice in the leading Hindi and English newspaper in the National Capital Territory of Delhi informing the affected member to be present in person or through the authorized representative before the Registrar on the date fixed for the final hearing. However, the appellant society has

not disclosed anything in this regard. Neither it has been claimed that the appellant society has complied with these requirements, nor copies of relevant newspapers have been placed on record. Therefore, there is no compliance of Rule 99 sub rule (2) of the Rules.”

7. ECIL argues that the notices were rightly addressed to the members. It was submitted that the details of the name of recipient, apartment and locality in the notices sent by registered post were accurate and the mere fact that there was an error in the Sector Number in two of the notices issued does not result in the conclusion that notice was not properly served. It was further contended that the additional notice requirements, requiring publication of notices in a Hindi and English newspapers requiring the member's presence during the final hearing before the Registrar, in Rule 99 are in conflict with the requirements listed in Section 86 of the Act and that the non-obstante clause in Section 86 of the Act renders it unnecessary to comply with the additional notice requirements in Rule 99 and consequently, that a failure to do so is not an infirmity that would render the expulsion notice liable to be set aside. Alternatively, it was contended that Rule 99, insofar as it prescribes additional requirements regarding the service of a notice of the expulsion proposal, was *ultra vires* its parent Act, specifically in conflict with Section 86, and consequently ought to be struck down.

8. The member, a self-represented litigant, urged that he was not a defaulter and that ECIL had maliciously colored him a defaulter, while failing to acknowledge many payments made by him and overcharging him. It was also submitted that the notices were not served upon him according to Section 86 of the Act read with Rule 99 of the Co-operative Society Rules as the address on the notices sent by registered post was inaccurate and there was no publication in newspapers as required by Rule 99. It is also noted that the

member, in his reply, makes an array of serious allegations ranging from intimidation, paying of illegal gratifications to police officials to financial irregularities in the conduct of the petitioner Society and deficiency in services that have been provided to the member by the petitioner Society.

9. The correctness of the tribunal's order is therefore, the subject matter of this petition. Before alluding to the arguments advanced by the parties, it would be useful to briefly outline the relevant statutory framework for co-operative housing societies in the NCT region. Section 34 requires the General Body of a co-operative Society to constitute a committee entrusted with the management of ECIL and to act on its behalf from time to time. This committee would be responsible for the proper functioning of ECIL. Under Section 70 of the Act, any dispute "*touching the constitution, management or the business of a co-operative Society*" is to be referred to the Registrar and no other court can exercise jurisdiction over the dispute. If the existence of a dispute under Section 70 is admitted by the Registrar, he/she may, pursuant to Section 71, decide the matter themselves or refer the dispute to anybody who has been accordingly empowered by the Government or refer the dispute to an arbitrator. Further, Chapter IX of the Act confers special powers on Co-operative housing societies defined in Section 74(e) of the Act. These include societies duly registered as such under the Act. Section 83 deals with the settlement of disputes in the event they arise between the co-operative housing society and its members or sub-allottees. Section 83(1) reads as follows:

"83. (1) Notwithstanding anything contained in any law relating to rents or any other corresponding law for the time being in force in Delhi, any dispute relating to the occupation or recovery of possession of any plot, dwelling unit or flat in any co-operative housing society, the recovery of dues payable by a member or sub-allottee to a co-operative housing society or vice-versa arising on or after the date of the commencement of this Act and suits or

proceedings pending in any court after such commencement, shall be deemed to be a dispute within the meaning of section 70 of this Act and shall be decided in accordance with the provisions of this Act, and no court or other tribunal or authority shall have jurisdiction to entertain and decide any proceedings in respect of such disputes.”

10. Sections 84 of the Act provides for a special procedure for the recovery of arrears of land revenue and Section 85 provides for the recovery of dues where a member has failed to make the necessary payments that are due under the loan raised by the Co-operative Society against ECIL's properties. Applications to the Registrar under Sections 84 and 85, if successful, would result in the grant of a Recovery Certificate for the amounts due. Finally, Section 86 deals with the expulsion of members *inter alia* for being persistent defaulters. The relevant portion of Section 86 reads as under:

“86. (1) Notwithstanding anything contained in this Act and the rules framed thereunder, the committee of a co-operative housing society may, by a resolution, expel a member on any one or more of the following grounds, namely-

(a) if he has been a persistent defaulter in respect of any dues of the co-operative housing society; or

[..]

Provided that no such resolution shall be passed unless the member concerned has been given an opportunity of being heard after service of three registered notices confronting the member with the grounds for his proposed expulsion:

Provided further that no member shall be expelled unless a resolution to that effect is passed by not less than three-fourths of the members of the committee present and entitled to vote at the meeting and no resolution for expulsion shall be valid unless approved by the Registrar.

(2) After the resolution for expulsion is passed as above by the committee, the resolution shall be referred to the Registrar for approval within a period of thirty days.

(3) On the receipt of the resolution for expulsion, the Registrar shall take cognizance of such resolution within thirty days and pass a final order either approving the expulsion or rejecting the proposal

for expulsion within a period of one hundred and eighty days and if the matter is not decided by the Registrar within the aforesaid period, the expulsion of such a member shall be deemed to have been approved:

Provided that the Registrar, before approving the resolution, shall hear the parties concerned in the manner prescribed and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and compel them to give evidence on oath, affirmation or affidavit and to compel production of documents by the same means and as far as possible in the same manner as provided in the case of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) and the order under this section so passed by the Registrar, shall be final with a right for appeal before the Tribunal.

(4) Any party aggrieved by the order of the Registrar or deemed approval of expulsion, as the case may be, under sub-section (3) may, within sixty days from the date of such order, appeal to the Tribunal.” [Emphasis Added]

11. Resorting to the rule making powers under Section 137 of the Act, NCT by notification No. F.37(Policy)/RCS/142-150 in the Official Gazette, adopted the Delhi Co-operative Societies Rules, 2007. Rule 99 of the said Rules, concerning the procedure to be adopted for the expulsion of a member under Section 86 of the Act, reads as under:

“(1) the cooperative housing society may in accordance with the provisions of sub-section (1) of Section 86, expel a member. However, before passing a resolution for expulsion of the member, the committee shall have to deliberate the case of expulsion in the committee's meeting and shall have to approve the proposal for issue of notice for the expulsion of a member setting out therein full details of the grounds with supporting documents in all at least three registered notices shall be served on the concerned member with an opportunity to defend his case in writing and also in person to the committee. Each notice should be served on the concerned member with an interval of thirty days. After the expiry of thirty days period of the final notice, the committee shall consider the reply, if any, received from the concerned member in its meeting and three-fourths of the members of the committee present and entitled to vote

at the meeting, shall approve the proposal for expulsion and pass a resolution.

(2) Subject to the provision 86 of the Act a co-operative housing society, which has been allotted land, before expelling a member shall give final opportunity by publishing the notice in the leading Hindi and English newspaper in the National Capital Territory of Delhi informing the affected member to be present in person or through the authorized representative before the Registrar on the date fixed for the final hearing.

(3) The Registrar shall decide the expulsion case within the period of one hundred eighty days from the date of the receipt of the resolution for expulsion of a member from the cooperative housing society and shall convey his decision in writing to such member. If the resolution of the co-operative housing society for expulsion of a member is not approved by the Registrar within the said period of one hundred eighty days, the resolution for expulsion of the member shall be deemed to have been approved and the committee shall convey this decision of expelled member and the Registrar within a period of thirty days after the expiry of one hundred eighty days' time limit through the registered Post. If the approval of the deemed expulsion is not conveyed to the members and the Registrar within the above period of thirty days, thereafter, the resolution of expulsion shall be null and void.

(4) Aggrieved member shall have the right to file an appeal to the Tribunal within sixty days from the date of order of the Registrar or intimation of deemed expulsion.”

12. The tribunal concluded that expulsion proposal was invalid on two accounts – firstly, ECIL’s failure to comply with the notice requirements under Section 86 and secondly, its failure to publish a notice in a newspaper under Rule 99. The Tribunal felt that the three notices sent under Section 86 were not valid. According to it, the first notice sent on 22.10.2013 *via* registered post was addressed to the wrong PIN Code No. “110001” instead of “110075” (other details being accurate). The second and third notices (dated 22.11.2013 and 22.12.2013) were addressed to the wrong sector number. They were addressed to “Sector 6” instead of “Sector 10” (other details being accurate).

13. The rule that governs the service of notice by post can be found in Section 27 of the General Clauses Act, 1897. Section 27 reads:

“Where any Central Act or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, where the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.”

14. It is relevant to note that the Supreme Court, in *D. Vinod Shivappa v. Nanda Belliappa*, (2006) 6 SCC 456 ruled that where a notice has been properly addressed and sent by registered post and subsequently returned with an endorsement that the addressee was not available, it would be generally presumed (although not in all cases) that notice has been duly served but that it would be open for the addressee to rebut the presumption by adducing proof to that extent.

15. ECIL’s argument that inaccuracies in the PIN Code or in the Sector number were immaterial as regard the proper service is unsubstantiated and thus not maintainable. In the present case, Petitioner Society has not been able to prove the service of notice as no receipts or endorsement regarding the service has been produced on record. It is also evident from the record that the factual findings of the learned DCT regarding the inaccurate addresses on the notices that were sent are based on its analysis of the facts; they merely endorse the opinion of the Registrar; as such they do not call for interference with.

16. Section 86 of the Act requires the service of three notices that are separated by thirty days each so that the member may be adequately informed

of the discussions of the Management Committee regarding his alleged default and the grounds on which they may proceed against the member. This is because Section 86 mandates that the member be heard by the Management Committee before any action is taken regarding by ECIL or the society regarding her expulsion. Furthermore, the Management Committee's expulsion proposal would not result in a valid expulsion order unless it is admitted by the Registrar and after his/her consideration of the proposal and hearing the parties, it is duly approved. The member who might be facing expulsion is also additionally afforded a right to be heard by the Registrar under Rule 99. It is therefore evident that Section 86 deals with a relatively early stage and consequently the notice requirement enumerated in Section 86 should be read in this light. Therefore a failure to provide notice as prescribed by the statute is by itself insufficient to strike down the action.

17. Owing to the particular nature of the case, the member was aware of the demands made by the Petitioner Society right from 2009. He was also apprised of the intention of ECIL to move proceedings against him and the arbitration proceedings concerning the amount due. The member, despite repeated requests by the Arbitrator, refused to attend the arbitration proceedings, which, owing to his absence was conducted *ex-parte*. The member further attempted to raise the issue of overcharging and the unpaid dues before the Consumer Disputes Redressal Forum. Further, in his e-mail dated 27.12.2013 to the Petitioner Society, he unambiguously stated that he is apprised of the content of the notices and states that he has already replied to them. Additionally, he had himself requested a hearing before the Management Committee on 12.01.2014. This request was granted and as enumerated in the minutes of the Committee meeting on that day, he was heard before the expulsion resolution was passed by the Management Committee.

18. While we are unable to make a finding as to whether the required notices were actually served on the member, it is evident that even if on account of the inaccuracies in the address of the post the notice was not properly served, the member, i.e. the second respondent, was fully appraised of the situation and afforded a hearing on his own request was not prejudiced by this irregularity. Therefore we conclude that conclusion arrived at by the DCT that the expulsion proposal was bad in law on this account is not justified.

Failure to comply with the notice requirement in Rule 99 of the Rules:

19. The tribunal had also observed that the failure of ECIL to publish a notice in a Hindi and English newspaper, providing a final opportunity to the Respondent No. 2 to make his case before the RCS, was fatal to the expulsion proposal. The essence of Rule 99 is that the member who might be facing an expulsion be informed that the RCS is considering his/her expulsion proposal and that the member be given an opportunity to make his case before the Registrar in the event he is unable to dissuade the Management Committee from going ahead with the expulsion. The relevant portion of the rule reads as follows:

(2) Subject to the provision 86 of the Act a co-operative housing society, which has been allotted land, before expelling a member shall give final opportunity by publishing the notice in the leading Hindi and English newspaper in the National Capital Territory of Delhi informing the affected member to be present in person or through the authorized representative before the Registrar on the date fixed for the final hearing.

It is pertinent to note that the term “shall” in such rules only qualifies as an obligation to give a final opportunity and that the manner in which the rule prescribes the extension of the final opportunity is not a mandatory provision. The Supreme Court in *Ram Vimal Krishna v. State of Bihar* (2003) 6 SCC 401 pertinently stated thus:

“26. [...] Generally speaking, the object of giving a notice is to draw the attention of the persons sought to be affected to the matter notified. The purpose of specifying a particular mode of giving notice is to raise a legal presumption against such person, of knowledge of the subject of the notice. In other words, once the mode specified for giving notice is complied with, the onus is on the persons notified to prove that they were not aware of the subject-matter of the notice. There is otherwise no special sanctity given to the mode of service of notice. The appellants have contended that even though owners were served with individual notices under Section 149(2), unless publication was made in the manner provided in Section 149(1) the occupants who were liable to pay water tax and latrine tax would be seriously affected and would not have an opportunity of challenging the imposition of the tax on them. Incidentally, in the objections filed by the appellants their contention is that the holdings owned by them were not liable to payment of latrine tax or water tax because neither of the services were available. However, the matter has to be decided as a principle and not with reference to the appellants' case.”

20. In the present case, there is no doubt that the member, i.e. the second respondent was heard by the Special Registrar as noted in the order passed by the learned Registrar on 01.04.2016. The Special Registrar was considering the matter anew (as directed by the DCT). Further, the failure to be heard by the Registrar who was previously empowered to hear the matter is immaterial as no action before that authority survives. Given that the Respondent No. 2 did receive a hearing before the RCS, the failure to comply with the mode of notice as prescribed in Rule 99 does not affect the validity of the expulsion proposal. In light of the above construction of Rule 99, we fail to see a conflict between the provisions of Section 86 of the Act and Rule 99 of the rules and no question *vires* arises.

21. On both these accounts the decision of the learned DCT in refusing to interfere with the order passes by the learned Special Registrar are not sustainable. The order of the DCT is therefore set aside.

22. The order of the Special Registrar dated 01.04.2016, wherein the learned Special Registrar observed that “*once an allotment of flat is made by the concerned authority, no useful purpose would be served by expelling any member as the flat would continue to remain in, the name of the member*”. On this basis, the learned Special Registrar observes that ECIL should have resorted to the procedure enumerated in Section 84 for the grant of a recovery certificate or filed an arbitration case in order to settle the dispute concerning the alleged overcharging.

23. This finding firstly ignores the discretion vested in the Management Committee under Section 86 of the Act. The Supreme Court in *Myurdhwaj Coop. Group Housing Society Ltd. v. Presiding Officer, Delhi Coop. Tribunal* (1998) 6 SCC 39, relying on similar provisions in the previous co-operative societies act and rules, observed:

“10. This Rule deals with the procedure for the expulsion of members. In case a society decides to expel its member who is persistently defaulting in making the payment of his dues, the procedure to be followed could only be what is provided under this Rule and no other. The principle referred earlier that if a thing is required to be done in a manner as provided under the law has to be done in that manner alone and no other manner will apply with equal force under Rule 36, when a society decides to expel its member. In case of expulsion, the procedure provided under it and the expulsion has to be only under the mode provided therein and no other which is mandatory in nature. But this is only after decision is made to expel its member. This Rule does not take away the discretion of the society to expel a member or not which is preceding the exercise of power under Rule 36. For this, there is nothing under this Rule which either circumscribes or webs this discretion. Since this Rule is for the expulsion of its members, it is stringent in its application. Even after giving opportunity and even after the general body passes such a resolution, it requires approval of the Registrar. Outside this, there is nothing which restricts a society to act freely

and to lay down its own policies. It is always open to it to decide on a fact to expel him or not. Its discretion to act is curtailed only by a statutory provision or any order having force of law. A policy may depend on various factors, its planning, projects, undertakings including its financial capacity etc. One society may be in a sound position and the other in a limping position thus may give to its member larger or lesser benefits as the case may be. Thus it is always open to a society to lay down its own principle for making such allotments. So consideration of prompt payment in shaping its policy which helps it to complete its project to confer on its member its fruits at the earliest may be justified exercise of its discretion. To what extent a default is going to affect a society will depend on the facts and circumstances of each case which has to be left at the discretion of each society. It is not proper even for the courts to interfere with such a discretion, except when it is arbitrary, irrational, mala fide, against any statutory provisions or against orders having the force of law. This will not be possible if a strict principle of seniority is followed. However it is open for a society to give weightage to seniority depending on the facts of each case. Within permissible limits, it is always open to lay down a principle which is just, fair and proper. When a society could decide the manner of allotment by instalments or other modes, there is no inhibition to it to modify it in case conditions are not complied by its members. Thus it is not possible to uphold that the society has no option but to proceed under Rule 36 to expel its member. Hence once a society has a discretion, it cannot be said its power is restricted to allot only under the strict rule of seniority.

24. Further, the learned Special Registrar did not appreciate that:
- a. Section 84 of the Act only deals with arrears of land revenue and not with the plethora of other dues claimed by the Petitioner Society.
 - b. The learned Special Registrar recommended that ECIL institute arbitrations proceedings without appreciating the fact that arbitration proceedings were instituted and the award was rendered *ex-parte* owing to the Respondent No. 2's persistent absence.

25. During the hearing, the member, i.e. the second respondent had stated that he would be willing to deposit the amounts payable to the ECIL and that he would be contesting ECIL's actions in recovering excess amounts from him. It had also transpired that he had recently undergone an angioplasty. Keeping these factors in mind, the court is of opinion that before proceeding to deal with the proposal to expel the second respondent/member, he should be and is allowed 3 month's time to deposit the amounts. ECIL's proposal would then be taken up by the Special Registrar who would decide the application in accordance with law, after considering whether the amounts payable towards maintenance and other dues have indeed been deposited. Accordingly, the parties are directed to be present before the Special Registrar on 6th November, at 2:00 PM. On that date the said official shall give a date after three months for the parties' presence to examine whether all amounts are deposited by the second respondent; in the event of failure, he shall proceed and decide ECIL's application seeking leave to expel the third respondent, and decide it in accordance with law, within 3 months thereafter.

26. The writ petition is partly allowed in the above terms without order on costs.

S. RAVINDRA BHAT
(JUDGE)

A.K. CHAWLA
(JUDGE)

OCTOBER 29, 2018