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

+ W.P.(C) 13020/2018 & C.M. No. 50536/2018

POONAM SINHA

..... Petitioner

Through: Mr. Arun Kr. Srivastava with Mr.
Ashwini Kumar, Advs.

versus

REGISTRAR OF COOPERATIVE SOCIETIES AND ANR.

..... Respondent

Through: Mr. Naushad Ahmed Khan, ASC
Civil, GNCTD.

Counsel for respondent No.2
(appearance not given.)

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

10.12.2018

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Counsel for respondent No.2 puts in appearance. He submits that the President and Secretary of the Respondent Society are not in town. He submits that in response to the notice dated 05.07.2018, received from the Registrar of Co-operative Societies, a communication dated 11.08.2018 has been sent to the said office informing that, apart from the claim of the petitioner, there are two other claimants in respect of the membership and flat left by the deceased member Shrimati Shanti Singh w/o Late Dr. B.M. Singh having membership No. 76. The said communication along with its enclosures has been shown to the Court by ld. Counsel for respondent No.2.

The petitioner's claim is premised on a probate of the Will of the erstwhile member Late Shrimati Shanti Singh. It is not the case of the respondent No.2 that the said probate has been set aside by any Court. A declaration by a Court in probate proceeding is a declaration in rem.

Merely because some other persons may be staking claim to the property of Late Shrimati Shanti Singh, is no reason for the respondent No.2 society to disregard the probate, particularly when no injunction or stay order has been passed by any Court to restrain the Society from acting on the said probate and in enrolling the petitioner as a member in place of the deceased member.

Learned counsel for the respondent No. 1 submits that once the representation of the petitioner had been forwarded to respondent No. 2 society, it was for the respondent No.2 society to take steps to enrol her as a member.

In view of the aforesaid, we direct the respondent No.2 Society to proceed to act in terms of the probate granted in favour of the petitioner. The same would, however, be subject to orders that may be obtained by any other claimant from a judicial forum. The petitioner shall, however, clear all reasonable outstanding dues that may be raised by the society.

Learned counsel for the respondent No.2 states that respondent No.2 Society has not obstructed the petitioner's request for potable water or gas connection, and to carry out legitimate repair work.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

A. K. CHAWLA, J

DECEMBER 10, 2018

N.Khanna