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

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Date of Decision: 27.03.2019

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W.P.(C) 2939/2019

DELHI COOP. HOUSING FINANCE CORPORATION LTD.

..... Petitioner

Through: Mr. S.K. Kaushik, Adv.

versus

REGISTRAR OF CO- OPERATIVE SOCIETIES, DELHI & ORS.

..... Respondent

Through: Ms. Prabhsahay Kaur, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J. (ORAL)

C.M. No. 13637/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 2939/2019 & C.M. No. 13636/2019

1. The petitioner Delhi Coop. Housing Finance Corporation Ltd (DCHFCL) has preferred the present writ petition to assail the order dated 13.02.2017 passed by the Delhi Co-operative Tribunal (DCT) in Appeal No.48/2015/DCT, arising from Arbitration Case No. 19/GH/DR/ARB/2014-15. By the impugned order, the DCT has dismissed the appeal preferred by the petitioner against the award dated 23.03.2015.

2. The petitioner had advanced the loan to the Shankar Co-operative Group Housing Society Limited for raising construction of the flats for its members. Loan had been taken on behalf of a few of the members and not all the members. Respondent No. 2 – Shrimati Kshama Pathak had not obtained any loan from the petitioner and had funded the construction of her flat entirely on her own by taking a loan from her employer.

3. It appears that dispute arose with regard to the repayment of the loan advanced by the petitioner. While the petitioner claims that there is still an outstanding amount of about Rs.3 Crores to be recovered, the stand of the respondent Society is that the members who had availed of the loan, have entirely repaid the same.

4. On account of the aforesaid dispute, the petitioner was not willing to grant a No Due Certificate/ No Objection Certificate to the respondent No. 2 – Shrimati Kshama Pathak, which was necessary so that she could deal with her flat.

5. In view of the aforesaid, she raised an Arbitration dispute under Section 70 of the Delhi Co-operative Societies Act, 2003, wherein the petitioner was impleaded as respondent No.1. The learned Arbitrator vide award dated 23.03.2015, allowed the claim of respondent No.2. As aforesaid, the petitioner's appeal has been rejected by the DCT on 13.02.2017.

6. The submission of learned counsel for the petitioner is that the petitioner is yet to recover about Rs.3 Crores in respect of the loan advanced to respondent society. On the other hand, the society is protecting all its

members, since it is claiming that all the members, who had availed of the loan, have repaid the same.

7. We do not find any merit in this petition for the reason that so far as respondent No.2 is concerned, admittedly, she had not availed of any loan from the petitioner. The petitioner can have absolutely no claim against respondent No.2 and her flat, in any event, cannot be attached or sold to recover the alleged dues of the petitioner. The petitioner may have a claim against those members who had availed of the loan, and may seek attachment and sale of the flats of such members, in case they have not repaid their loans, or the monies paid by them have not been transmitted to the petitioner.

8. In similar circumstances, we have disallowed the similar stand taken by the petitioner in W.P.(C) 1684/2017, *Parveen Mahajan & Ors v. The Registrar Cooperative Societies, Delhi & Anr* & W.P.(C) 1704/2017, *Devendra Sharma & Ors The Registrar Cooperative Societies, Delhi & Anr*, decided on 25.03.2019.

9. We, therefore, find no merit in this petition.

10. Dismissed.

VIPIN SANGHI, J.

REKHA PALLI, J.

MARCH 27, 2019/ N.Khanna