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

+ **W.P. (C) 3613/2019 and CM APPL. 16570, 16572/2019**

DR. SUDESH KUMAR GARG Petitioner

Through: Mr. V.K.Diwan, Mr. Utkarsh Mathur
and Mr. Raghav Rajmalani, Advocates.

Versus

THE REGISTRAR, CO-OPERATIVE SOCIETIES GOVERNMENT
OF NCT OF DELHI AND ORS. Respondents

Through: Mr. Jawahar Raja, ASC for R-1 and R-2.
Mr. Rajiv Vig, Advocate for R-3.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **20.11.2019**

1. On 10th April, 2019 the Court passed the following order was passed:-

“The submission of learned counsel for the petitioner is that when he was enrolled as a member of the respondent No.3 society, he was provided a copy of the bye-laws which stated that the condition of domicile in Delhi will not apply to Central Government servant, including officers of All-India Services/ service personnel/ employees of Public Sector Undertakings. He claims that the petitioner was covered in the said exception. He further submits that the respondent society kept demanding and accepting monies from the petitioner for construction of the flats and he deposited the same under the belief that he was eligible to be a member. The dispute with regard to membership was raised, for the first time, in 2015, i.e. after 15 years of the petitioner

becoming a member, when he had already paid over 35 Lakhs of rupees to the respondent society. The Special Registrar of Cooperative Societies has held that the amendment to the bye-law – on which the petitioner placed reliance, was never approved by the Registrar of Cooperative Societies. Moreover, the said amended bye-law would be in the teeth of Rule 24(v) of the Delhi Cooperative Societies Rules, 1973, which were applicable at the relevant point of time when the petitioner became a member.

In the light of the aforesaid, we are satisfied that the petitioner was not entitled to become a member, or remain a member of the respondent society. At the same time, it appears that the petitioner has been taken up the garden path by the respondent society, and the society has used the monies of the petitioner for raising construction of the flats. We are, prima-facie, satisfied that the petitioner is entitled to refund of the entire amount with suitable rate of interest thereon.

Issue notice. Learned counsel for the respondents No. 1 & 2 accepts notice.

Let notice issue to respondent No.3 returnable on 20.11.2019.”

2. Having heard learned counsel for the parties, it is directed that the Petitioner would be refunded the entire amount deposited by him with Respondent No. 3/ Society (excluding an amount of Rs. 3 lakhs, for which the Petitioner has not been able to provide any proof), together with interest, payable in terms of Rule 32 of the Delhi Co-operative Society Rules i.e. simple interest at 6% per annum from the date on which the deposit was made with the Society up to the date of the actual refund, which shall not be in any event be later than 15th December, 2019.

3. As far as the amount of Rs. 3 lakhs is concerned, it will be open to the Petitioner to avail other appropriate remedies that may be available to him in accordance with law.

4. The petition is disposed of in the above terms.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 20, 2019

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