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

+ **W.P.(C) 4484/2019**

**KARUNA VIHAR COOPERATIVE GROUP HOUSING SOCIETY
LIMITED**

..... Petitioner

Through: Mr. Ravi P. Shukla with Ms. Upasna
Shukla, Advs.

versus

SHRI SURESH CHAND JAIN AND ORS.

..... Respondent

Through: Ms. Jyoti Taneja, Adv. for R-9.

**CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI**

ORDER

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29.04.2019

C.M. No. 19991/2019

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

CAV No. 451/2019

Despite the Caveat being listed, none appears for the caveator. The caveat stands discharged accordingly.

W.P.(C) 4484/2019& C.M. No. 19990/2019

1. The petitioner society assails the order dated 20.02.2019, passed by

the Delhi Co-operative Tribunal in Appeal No. 58/2013/DCT arising from Arbitration Case No. 3829/ARB /2009-10.

2. The Tribunal has rejected the said appeal preferred by the petitioner society to assail the Arbitral Award dated 15.02.2013 passed by the Arbitrator under Section 71 of the Delhi Co-operative Societies Act in the aforesaid Arbitration Case.

3. Arbitration had been invoked by the heirs of Late Shri Mam Chand Rai Jain on the ground that the petitioner society had illegally terminated the membership of Late Shri Mam Chand Rai Jain by incorrectly showing him as a member who had resigned from the membership of the society. The respondent Nos. 1 to 8 had claimed that they learnt of the said resignation only when an enquiry was made by an officer of the CBI, while conducting the investigation into the affairs of the petitioner society in the year 2005.

4. The Arbitral Tribunal, after recording evidence, held in favour of respondent Nos. 1 to 8 that the membership of Late Shri Mam Chand Rai Jain had wrongly been terminated on the basis of a resignation. The Arbitral tribunal held that there was nothing to show that Late Shri Mam Chand Rai Jain had actually resigned from the society in as much as neither his resignation letter; nor any proof of return of his share application money; nor any specific resolution accepting his resignation; nor any communication either to Late Shri Mam Chand Rai Jain or to the Registrar of Co-operative Societies in that respect was produced in Arbitration of the petitioner society.

5. The Delhi Co-operative Tribunal has, as aforesaid, rejected the petitioner's appeal.

6. The submission of learned counsel for the petitioner is that the

resignation letter has been held to be forged, even though the same was not found on the record.

7. We do not find any merit in this submission of the learned counsel for the petitioner.

8. Firstly, we may observe that the arbitral tribunal as well as the Delhi Co-operative Tribunal have returned findings of fact based on their examination of the records. In writ jurisdiction, the petitioner cannot be heard to assail the same, particularly, when the petitioner has not made out a case of patent illegality; taking into consideration of the irrelevant evidence or material or; exclusion of relevant evidence or material. Even otherwise, we find that the findings returned by the arbitral tribunal as well as the Delhi Co-operative Tribunal are well reasoned and rendered after taking into consideration of the evidence placed on record.

9. It was for the petitioner society to make good its claim that Late Shri Mam Chand Rai Jain had actually resigned from the society – as claimed by it. It was for them to produce the relevant record in that regard since they are possessed of the record. However, they failed to produce any such record and, as noticed by the arbitral tribunal as well as the Delhi Co-operative Tribunal, their conduct pointed to the contrary.

10. In these circumstances, we find no merit in this petition.

11. Dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 29, 2019

N.Khanna