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

+ W.P.(C) 3324/2013

RESIDENTS WELFARE ASSOCIATION
(REGD)

..... Petitioner

Through: Ms Kusum Lata Sharma, Advocate.

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Mr Garib Kabir and Mr Dhanesh
Chawla, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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24.07.2019

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to cancel the registration of 'Kalptaru Residents Welfare Association (LIG) B3A Block, Janakpuri, New Delhi' as a society under the Societies Registration Act, 1860. The petitioner also impugns an order dated 02.11.2010 passed by the Registrar of Societies, *inter alia*, holding that the LIG flats of B3A Block, Janakpuri, New Delhi were out of the purview of Delhi Apartment Ownership Act, 1986.
2. The petitioner claims to be a Resident Welfare Association formed by the residents of 300 flats located in DDA Colony from no.1AB to 80AB (160 flats) and 201 to 341 (140 flats). It is stated that the petitioner society was registered under the Societies Registration Act, 1860, in the 2003.
3. The petitioner's grievance is that another society – 'Kalptaru Resident Welfare Association (LIG) B3A Block, Janakpuri, New Delhi' – has also

been registered by the Registrar of Societies. The petitioner contends that only one Resident Welfare Association can be registered and it was illegal for the Registrar of Societies to have registered the society by the name of 'Kalptaru Resident Welfare Association (LIG) B3A Block, Janakpuri, New Delhi'.

4. The petitioner contends that the Delhi Apartment Ownership Act, 1986 is applicable to the flats in question and the common areas are now required to be maintained by an association of flat owners. The petitioner has relied upon circular dated 06.10.1995 issued by DDA, which indicates that on the Delhi Apartment Ownership Act, 1986 coming into force, it would be compulsory for the apartment owners to form an association for the administration of affairs in relation to the apartments and management of the common area and facilities.

5. In terms of the aforementioned Circular, DDA has also directed that keeping in view the aforesaid provisions, the association formed for various the Housing Estates of DDA be also registered with the DDA.

6. The petitioner claims that it is registered with the DDA, which has also issued a Certificate of Registration dated 18.05.2012, in favour of the petitioner.

7. At the outset, it is noticed that the order dated 02.11.2010 has been passed by the Registrar of Societies, Government of NCT of Delhi. There is no prohibition in law which precludes registration of more than one society formed by residents of any residential area. And, any society that is validly formed and complies with the statutory requirements can be registered.

8. The petitioner appears to have confused the issue regarding the registration of societies under the Societies Registration Act, 1860 and

registration of societies with DDA. While, the petitioner's contention may have merit that only one association of residents can be recognised for management of common areas and facilities in terms of Section 15 of the Apartment Ownership Act, 1986, the same does not mean that the Registrar of Societies is required to cancel the registration of any society registered under the Societies Registration Act, 1860.

9. Insofar as the petitioner's grievance regarding the finding returned by the Registrar of Societies regarding applicability of the Delhi Apartment Ownership Act, 1986 is concerned; the same is merited. Clearly, the Registrar of Societies has no jurisdiction to enter into any controversy in that regard. The question whether the Delhi Apartment Ownership Act, 1986 is applicable to the flats occupied by the members of the petitioner society is not a subject matter of disputes that could have been adjudicated by the Registrar of Societies.

10. In view of the above, the observations made by the Registrar of Societies regarding Delhi Apartment Ownership Act, 1986 in the order dated 02.11.2010 are expunged. Insofar as the decision of the Registrar of Societies that it had no competence to enter the controversy or to cancel the registration is concerned, the same cannot be faulted.

11. In view of the above, the present petition is disposed of leaving it open for the petitioner to avail all the appropriate remedies with the concerned authorities.

12. It is clarified that this Court has not examined the right of the petitioner to be registered with DDA for the purposes of the Delhi Apartment Ownership Act, 1986 or the Delhi Development Authority (Management and Disposal of Housing Estates) Regulations, 1968. This

Court has also not examined whether the Delhi Apartment Ownership Act, 1986 is applicable to the apartments in question. This court has not expressed any opinion on the aforesaid issues and nothing stated in this order should be construed as such.

VIBHU BAKHRU, J

JULY 24, 2019
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