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

+ **W.P.(C) 5881/2018 & CM APPL. 2276/2019**

RISHI APARTMENT LIFT MAINTENANCE WELFARE

ASSOCIATION (REG.) Petitioner

Through Mr Gaurav Bhardwaj, Advocate.

versus

MANAGING COMMITTEE OF RISHI

CO-OPERATIVE GROUP HOUSING

SOCIETY & ORS Respondents

Through Mr Ankur Mahindro, Mr Jayant Mohan
Varma, Mr S. Gousalves, Advocates for R1.

Ms Jyoti Taneja, Advocate for R2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **25.03.2019**

1. The petitioner has filed the present petition, inter alia, impugning the letters dated 22.01.2018, 15.03.2018, 29.04.2018 and 04.05.2018 issued by respondent no.1 (Managing Committee of Rishi Cooperative Group Housing society).
2. The controversy in the present petition relates to the construction of lifts for use of apartments in the Cooperative Group Housing society – Rishi Apartments located at Plot No. 25/4, Sector-9, Rohini, Delhi- 110085. The petitioner claims to be a society registered under the Societies Registration Act, 1860, and has been formed for installation and maintenance of lift facilities at the said Cooperative Group Housing society. The petitioners are

essentially aggrieved as respondent no.1 is opposing the construction of the lifts.

3. The attention of this Court has been drawn to “the Policy for Installation of Lifts and Connecting Bridge in Cooperative Group Housing Societies (CGHS), DDA built flats (Low Rise Flats) in NCT of Delhi.” (hereafter ‘the policy’). The said policy indicates that no Person/Society shall erect or re-erect or make alteration or cause the same to be done in the existing structure, without obtaining the “NOC/Sanction” in each individual case from DDA/Local Body.

4. Paragraph 1.1 of the policy provides for the pre-requisite for grant of NOC-cum-Sanction. The said paragraph is set out below:-

“1.1 Pre-requisite for grant of NOC-cum-Sanction:

- (i) Consent from owners using common stair case in that block is a pre-requisite (50% or more excluding ground floor) who will be beneficiary due to installation of lift. The consent from ground floor owner is advisable but not mandatory.”

5. It is apparent from Clause (i) of paragraph 1.1 of the said policy that consent from owners using common staircase in “that block” is a pre-requisite for obtaining an NOC. It is pointed out that in the present case, the Group Housing Society contains 12 blocks, out of which eight blocks comprise of eight flats and four blocks comprise of nine flats. Thus, in order to erect a lift in any of the blocks, it would be necessary for 50% of the residents of that block excluding ground floor to grant their consent. There is a dispute whether such consent is available. Respondent no.1 claims that the consents which were issued earlier have since been withdrawn.

6. In order to resolve the aforesaid controversy, it is directed that the

petitioner would obtain fresh consents from the owners of flats (other than the owners of flats on the ground floor) of each block, in order to provide a lift for that block. It is clarified that the consent must be obtained block wise as indicated in paragraph 1.1 (i) of the policy in question. The petitioner would be at liberty to apply afresh for a fresh NOC on obtaining such consent from the concerned parties.

7. The petition is disposed of with the aforesaid directions.

VIBHU BAKHRU, J

MARCH 25, 2019

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