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

+ **W.P.(C) 5920/2020**

**THE MIANWALI DISTRICT COOPERATIVE HOUSE BUILDING
SOCIETY LIMITED & ANR** Petitioners

Through: Mr. Rajeev Saxena and
Mr. Manish Khurana, Advocates

versus

THE REGISTRAR COOPERATIVE SOCIETIES DELHI & ORS

..... Respondents

Through: Mr. Gautam Narayan, ASG, GNCTD
Mr. Manjit Singh Ahluwalia, Advocate for
R-2 to R-5

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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02.09.2020

HEARD THROUGH VIDEO CONFERENCING

CM 21408/2020(Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 5920/2020 & C.M. 21407/2020 (Stay)

1. This is the second petition filed by the petitioner in less than one month. Prior to filing the present petition, the petitioner had approached this court by filing W.P. (C) 5349/2020, raising therein a grievance against the order dated 05.08.2020, passed by the learned Financial Commissioner (in short 'the FC') in an appeal filed by the petitioner/Society against the

order dated 24.07.2020, passed by the respondent No.1/Registrar Cooperative Societies (in short '**the RCS**'). By the impugned order, the learned FC had dismissed an application moved by the petitioner/Society praying *inter alia* for grant of an *ex parte* stay in the pending appeal on the ground that there was no justification for taking an early decision in the matter.

2. The submission made by Mr. Saxena, learned counsel for the petitioner was recorded that it is not a case where the learned FC had dismissed the stay application moved by the petitioner/Society on the ground that there was no urgency in the matter, she has gone into the merits of the matter as was apparent from a perusal of para 2 of the impugned order, while the appeal is still pending consideration and has been adjourned to 17.09.2020.

3. Mr. Gautam Narayan, learned ASG who had appeared on advance notice on behalf of the respondent/GNCTD had stated that this court may clarify that para 2 of the order dated 05.08.2020 passed by the learned FC, will not come in the way of the petitioner.

4. In view of the said submission, para 2 of the order dated 05.08.2020 passed by the learned FC was expunged and it was observed that as the petitioner's appeal is pending before the learned FC, the same shall be considered after taking an independent view in the matter.

5. Now, the petitioner has approached this court once again praying *inter alia* that the decision dated 26.08.2020, taken by the learned FC of declining to take up the petitioner's application dated 19.08.2020 moved in the pending appeal be interfered with as the learned FC has adjourned *en bloc* all matters till 14.09.2020 whereafter, physical hearing shall be resumed.

6. We may note that the petitioner's appeal is in any case is listed before the learned FC on 17.09.2020 and merely because it had approached this court on an earlier occasion being aggrieved by the order dated 05.08.2020, passed by the learned FC on the interim application for seeking an *ex parte* stay, is not a ground for it to file the present petition. The petitioner will have to wait like other litigants for the date fixed in the appeal, which is 17.09.2020.

7. We decline to entertain the present petition. In the event, the learned FC passes an order in favour of the petitioner on the stay application moved by it for restraining the Administrator appointed by the RCS from taking over the Society, then *status quo ante* can always be restored.

8. The petition is dismissed, along with pending application.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

SEPTEMBER 02, 2020

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