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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4836/2014, CM APPLs. 9656/2014 (stay) and 29848/2015**
(impleadment)

C.P. AGGARWAL

..... Petitioner

Through: Mr. Vinya Nagpal with Ms. Deepika
Gupta, Advocates.

versus

SHRI MAHAVIR COOPERATIVE GROUP HOUSING SOCIETY
LTD.

..... Respondent

Through: Mr. Avinash K.Trivedi, Advocate for
R-1.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER

% **25.02.2020**

1. On 23rd April, 2019 the following order was passed by this Court:

“C.M. No. 9656/2014 & C.M. No. 29848/2015

The petitioner has tendered in Court in a tabulated form, the breakup of the amounts payable under the award, which is Rs.1,35,976/- plus costs of Rs.25,00/-. Out of the said amount, if the amount towards the DCHFC loan of Rs. 56,792/- is removed since the same was paid by the petitioner on 01.01.2013 aggregating to Rs. 16,41,479/-, the balance amount payable by the petitioner to the respondent society comes to Rs.81,684/-. The petitioner has provided the calculation of interest @ 18% per annum for the period 06.09.1997 to 27.01.2005 which comes to Rs.1,05,711 /-. For the period 28.01.2005 to 30.06.2016 interest is calculated @ 10% on the

amount due, which comes to Rs.93,256/-. These rates of interests have been applied by the petitioner on the strength of the orders issued by the Registrar of Co-operative Societies dated 06.08.1993 and 28.01.2005. The liability of the petitioner is thus computed as Rs.2,80,651/- as on 30.06.2016.

The petitioner states that the petitioner is willing to pay the said amount. Considering the fact that further time has elapsed, the petitioner should pay interest @ 10% per annum till the actual date of payment. If the amount is rounded off, the amount as on date would come to about Rs.03,05,000/-. The petitioner should deposit the said amount with the respondent within the next 10 days. The respondent shall accept the said amount.

The Office Bearers of the respondent society are present in Court and state that over the years, the respondent society has provided various facilities and the infrastructure of the society has been upgraded for the benefit of all the members. They state that for provision of such facilities and upgradations, from time to time, the society resolved to charge the members and demands were raised, which were made by the members. Facilities such as CCTV cameras, better roads, electrically operated security gates, etc. have been provided.

The respondent society may file an additional affidavit within 10 days - placing on record the demands raised from the members from time to time for providing such additional facilities and updates. The petitioner, obviously, should also share the said burden like all other members since the petitioner would also stand to gain from the said facilities.

List on 09.05.2019.”

2. Pursuant thereto, an additional affidavit has been filed by the Respondent. The Petitioner has also made the payment of the aforementioned sum to the Respondent and has been put in possession of the flat in question.

3. Subsequently, on 9th August, 2019 the following order was passed:

“Counsel for the respondent states that he had filed the additional affidavit on 07.05.2019. However, the same is not on record. Counsel should ensure to bring the same on record. Reply filed by the petitioner to the said affidavit is, however, on record.

Learned counsel for the petitioner submits that the possession of the furnished flat has not been tendered. On the other hand, learned counsel for the respondent states that the possession of the flat was tendered but not taken by the petitioner. The petitioner may proceed to take possession of the flat on 19.08.2019 at 11.00 A.M. He shall take the possession without prejudice to his rights and contentions and, in case, he has any surviving grievance, it shall be open to him to raise his claims before the appropriate forum. The matter is not part-heard and may be listed before the Bench as per Roster on 18.11.2019.”

4. Counsel for the Petitioner sought to produce before the Court photographs of the flat, possession of which has been handed over to the Petitioner, to say that it is in an uninhabitable condition. Counsel for the Respondent, on the other hand, points out that the earlier order dated 12th May, 2016 is yet to be complied with by the Petitioner and that further amounts are due from him.

5. The Court leaves it open to the Respondent as well as the Petitioner to institute separate proceedings for their respective outstanding grievances *qua* each other, in accordance with law. The Court does not propose to expand the scope of the present petition, except to note that the amount in terms of the order dated 23rd April, 2019 stands paid and that the possession of the flat in question has been handed over to the Petitioner in terms of the

subsequent order dated 9th August, 2019.

6. The petition is disposed of in the above terms. The pending applications are also disposed of.

S.MURALIDHAR, J.

TALWANT SINGH, J.

FEBRUARY 25, 2020 / tr