

\$~24

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

+ **CONT.CAS(C) 378/2017**

SURYA CGHS LTD

..... Petitioner

Through Mr. Subhash Chandra, Advocate.

versus

PROMILA BHUSHAN

..... Respondent

Through Mr. S. Chaturvedi, Advocate.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **27.01.2020**

Interestingly, the instant contempt petition has come to be filed by Surya Co-operative Group Housing Society Ltd. alleging violation of the observations and the directions given by the Division Bench in W.P.(C) 4639/2013 '*Shiv Lal & Ors. vs. Surya CGHS Ltd. & Ors.*'. In other words, the instant petitioner was the respondent no.1 in the said proceedings and the petitioners thereunder were none else but its own members. The Division Bench had actually dismissed the said writ petition with certain observations. The relevant observations and the directions contained thereunder are, as follows:

"35. Smt. Pratibha Sharma has filed this writ petition as petitioner no.3. Her husband has misbehaved and unsuccessfully attempted to disrupt elections to the Managing Committee in January, 2013. We have already noted that Sh. Shiv Lal is an erstwhile and disgruntled office bearer of the managing committee. There is substance in the submission on behalf of the society that the writ petition has been filed or

instigated by peeved erstwhile members of the managing committee or their relative(s)/associates who could not have their way in the society or such persons against whom action was necessitated for illegal action. The writ petition is clearly malafide and a gross abuse of the process of law.

36. It needs no elaboration that so far as decision making in cooperative societies is concerned, that has to be abided by the will of the majority. Such decisions have to also be in consonance with the requirements of law. A small group of 11 or so members, who were parties to the decision making and have unconditionally made payments towards the extension, and never expressed any objection, cannot be permitted to thwart the decision making of the majority, especially when no illegality or infirmity with the decision taken is pointed out.

37. For all these reasons, we find no merit in this writ petition which is dismissed with costs which are quantified at Rs.5,000/- per petitioner which shall be deposited in this court within a period of four weeks from today. The costs shall be apportioned in three equal shares to each of the respondent nos. 1, 2 and 3. The matter shall be listed before the Registrar General on 8th December, 2015 to monitor the deposit of the costs and its disbursement to the respondents.

38. Needless to say, the society shall ensure that the proposed extension shall not jeopardise the structural stability of the building. Also, any unwilling member shall not be compelled to make the payment for additional structure. At the same time, the society shall ensure that persons who have not made payment for the additional structure shall not be permitted enjoyment of the same.

CM No.10634/2013

In view of the dismissal of the writ petition, this application does not survive for adjudication and is hereby dismissed as such.”

It appears after the dismissal of the said petition the society has taken up the cause, apparently, with ulterior motives to help some individual

member rather than taking up the cause of the members collectively. The intent of the foregoing observations and the orders of the Division bench leave no doubt that with the FAR having been increased further construction could be raised by the society rather than by an individual.

In view of the foregoing and the totality of the facts and circumstances, the contempt petition is rejected.

A. K. CHAWLA, J

JANUARY 27, 2020

nn