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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12819/2018 and CM APPL. 1553/2020 (delay in filing reply)**

SUDERSHAN SACHDEVA Petitioner
Through: Ms. Neha Kapoor and Mr. Mohit Bhadu, Advocates.

versus

PANCHDEEP COOP. G.H. SOCIETY LTD & ORS..... Respondents
Through: Mr. Sandeep Kr., Advocate for R-1.
Ms. Soumya Tandon, Advocate for R-4.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **31.01.2020**

1. The present petition is directed against the order dated 4th September, 2018 of the Delhi Cooperative Tribunal ('DCT'), which dismissed the Petitioner's Appeal No. 218/2014 on the ground that the appeal was not maintainable as the Petitioner had filed the same in her individual capacity and not through the original member.

2. The brief facts are that the Petitioner had purchased Flat No. 41 in the Respondent No.1/Society way back in 1992 from one Mr. Baldev Krishna Verma. Mr. Verma, in turn, had earlier purchased the same flat from Mr. M.K. Batra, impleaded as Respondent No. 3 herein, who was an original

member of the Society. It is stated that the Society issued a no dues certificate on 1st October, 1992 at the time of the sale of flat by Mr. Verma to Mr. Batra. The Petitioner claims that even in her case, a similar no dues certificate was issued on 1st October, 1992, when she purchased the flat from Mr. Verma.

3. The case of Respondent No. 4/Delhi Cooperative Housing Finance Corporation Ltd. is that a collective loan had been availed by the Society from it and that with the flat in question i.e. Flat No. 41, being mortgaged with it as part of the said loan, any transfer of title to the Petitioner contravened the loan agreement. It is stated that an Award came to be passed way back on 28th January, 2005 by the Deputy Registrar for recovery of Mr. Batra's dues in relation to the said flat, the fact of which the Petitioner could not have been unaware of.

4. The Petitioner claims to have not been aware of the aforesaid fact and that it was only much later in 2014, after receiving certified copies of the Award, that she filed Appeal No. 218/2014 before the DCT.

5. By the impugned order, the DCT has held that the Petitioner has no *locus standi* to maintain an appeal against the Award dated 28th January, 2005. The short question that arises is whether the Petitioner had *locus standi* to maintain such an appeal before the DCT?

6. In the considered view of the Court, although the Petitioner may not have been a party when the *ex-parte* award was passed by the Deputy Registrar,

the fact remains that she continued paying the dues in respect of Flat No. 41 from the time of her purchase of the flat from Mr. Verma. In other words, all dues attaching to the said flat namely, maintenance, electricity, and other charges were acknowledged by her to be her liability. The transfer to her of the ownership of the flat has been acknowledged by the Society. Once it is clear that the liability arising from the Award, which attaches to the flat owned at present by the Petitioner, has to be enforced against the present owner of the flat, there should have been no difficulty in recognising the Petitioner's *locus standi* to maintain the appeal before the DCT, even though she was not a party to the Award of the Deputy Registrar.

7. On the above short ground, the impugned order of the DCT is hereby set aside and the Petitioner's appeal being Appeal No. 218/2014 of the DCT is restored to the file of DCT for being disposed of on merits. This Court clarifies that it has not expressed any opinion on the respective contentions of the Petitioner herein or any of the Respondents on the merits of the said appeal which would be decided by the DCT in accordance with law.

8. During the pendency of the present petition on 13th February, 2019, this Court had stayed further recoveries being from the Petitioner in view of the fact that pursuant to an order dated 30th November, 2018 passed by this Court, she had deposited the principal sum of Rs. 2,53,943/-, along with simple interest at 18 % per annum, from the date of award till the date of the deposit of the aforesaid principal sum.

9. The Court accordingly directs the said interim order to continue during the pendency of the Petitioner's appeal before DCT on the same terms, and

directs that after disposal of the appeal before the DCT, the aforesaid fixed deposit will be dealt with in terms of the consequential orders that will be passed by the DCT.

10. The petition and the pending application are disposed of in above terms.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 31, 2020

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