



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

% *Date of Decision: May 29, 2023*

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+ **W.P.(C) 6709/2023, CM APPL. 26253/2023**

NEELKAMAL CGHS LTD Petitioner

Through: Mr. Rajiv Vig, Advocate.

versus

REGISTRAR COOP. SOCIETIES & ORS. Respondents

Through: Mr. Satyakam, ASC for R1 and R2
Ms. Shobhana Takiar and Mr. Kuljeet Singh, Advocates for R-3.
Mr. Bharat Bhushan Bhatia, Advocate

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+ **W.P.(C) 6911/2023, CM APPL. 26926/2023**

NEELKAMAL CGHS LTD Petitioner

Through: Mr. Rajiv Vig, Advocate.

versus

REGISTRAR COOP. SOCIETIES & ORS. Respondents

Through: Mr. Satyakam, ASC for R-1
Ms. Shobhana Takiar and Mr. Kuljeet Singh, Advocates for R-3.
Mr. Bharat Bhushan Bhatia, Advocate

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+ **W.P.(C) 7040/2023, CM APPL. 27380/2023**

NEELKAMAL CGHS LTD Petitioner

Through: Mr. Rajiv Vig, Advocate.

versus

REGISTRAR COOP. SOCIETIES & ORS. Respondents



Through: Mr. Satyakam, ASC for R-1
Ms. Shobhana Takiar and Mr. Kuljeet Singh, Advocates for R-3.
Mr. Bharat Bhushan Bhatia, Advocate

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO (Oral)

CM APPL. 26252/2023 in W.P.(C) 6709/2023

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 6709/2023, CM APPL. 26253/2023

W.P.(C) 6911/2023, CM APPL. 26926/2023

W.P.(C) 7040/2023, CM APPL. 27380/2023

3. The challenge in these petitions is to a common order dated October 14, 2022 passed by learned Financial Commissioner in three Revision Petitions filed by the petitioner society challenging the common impugned orders dated July 10, 2018 passed by learned Assistant Collector (Grade – I), RCS, Delhi, whereby learned Financial Commissioner has rejected the Revision Petition for want of jurisdiction. In other words, it is the finding of learned Financial Commissioner that the petitions challenging the order passed by learned Assistant Collector shall not be maintainable under Section 116 of Delhi Cooperative Societies Act, 2003.

4. Mr. Rajiv Vig, Mr. Bharat Bhushan Bhatia and learned counsel appearing for the other respondents would state that in view of the judgment given by this court in the case of *Jain Co-operative Bank Ltd. vs. Puneet*



Jain & Ors., W.P.(C) 1588/2022 decided on March 28, 2023, the Revision Petitions before learned Financial Commissioner shall be maintainable and the Financial Commissioner could not have rejected the same. In view of the submission and the conclusion in paragraph Nos. 11 and 12 of the above judgment, which we reproduce, we revive the Revision Petitions filed by the petitioner Society on the Board of learned Financial Commissioner by setting aside order dated October 14, 2022.

“11. In view of aforesaid legal position, it is obvious that the orders passed in ‘execution proceedings’ purportedly under Section 105 of the Act are only amenable to the Revisional Jurisdiction and appeal cannot be preferred under Section 112 read with Section 114 of the Act, as the same has not been provided for in the statute. The same is also in accordance with the legislative policy, since the execution proceedings are separate and independent proceedings for the execution of the award / decree and the merit of the claim or dispute cannot be considered during the execution proceedings. Also, the challenge to the decision or award under Section 71 of the Act has already been provided for under Section 112(1)(k) and no further Appeal with reference to orders passed under Section 105 of the Act has been rightly envisaged, since the executing authority is bound by the terms of the decree.

12. It may also be observed that a party cannot be left remediless in respect of the orders passed in execution proceedings unless specifically barred by the statute. In view of above, the petitioner correctly approached the Financial Commissioner by way of Revision Petition for challenging the impugned order passed by the Assistant Collector.

For the foregoing reasons, the impugned order dated October 01, 2021 passed by the Financial Commissioner is set aside. The Revision Petition filed by the petitioner accordingly stands revived, which shall be considered and disposed of by the Financial Commissioner in accordance with law. In the



facts and circumstances, no order as to costs.”

5. This Revision Petitions be listed before learned Financial Commissioner for preliminary hearing on July 10, 2023 when the parties shall appear before learned Financial Commissioner, who shall proceed in accordance with law.

6. Submission is made that the learned Financial Commissioner be directed to dispose of the Revision Petitions at an early date. Liberty is granted to the counsel for the petitioner to make such a submission before the learned Financial Commissioner for his consideration.

7. Petitions stand disposed of. Pending applications also stand disposed of as infructuous.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

MAY 29, 2023/R