

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

% Date of decision: May 24, 2023

+ W.P.(C) 6819/2023 & CM APPL. 26619/2023

NARESH KUMAR

..... Petitioner

Through: Mr. Rizwan, Ms. Sachi Chopra and
Ms. Nistha Sinha, Advs.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Udit Malik, ASC, GNCTD with
Mr. Vishal Chanda, Adv.
Mr. Akshay Bhardwaj, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. The challenge in this writ petition is to an order dated March 15, 2023 passed by the Delhi Co-operative Tribunal, whereby, the Tribunal while considering the application of the respondent No.3, Society, has stated in paragraph 12 as under:-

“12. It is an admitted position that the Administrator appointed by the RCS has not yet taken over charge. Accordingly, in our view, it will not be appropriate for the Administrator so appointed, to take over the charge of the Society till the prayer of the Respondent is considered by the Hon’ble High Court.”

2. On the last date of hearing, we have passed the following order:-

“CM APPL. 26620/2023

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6819/2023, CM APPL. 26619/2023

Issue notice. Mr. Malik accepts notice for the respondent nos. 1 & 2.

Let notice be issued to respondent no. 3.

The submission of Mr. Rizwan, learned counsel for the petitioner is that the Tribunal has erred in passing the impugned order dated March 15, 2023, wherein the Tribunal by stating that the Administrator has not taken over the charge, directed he may not take over the charge. According to Mr. Rizwan by drawing our attention to page 147 of the paper book to contend that the Administrator has taken charge on February 19, 2023 itself which is much before the impugned order was passed.

Mr. Malik states, he shall take instructions.

List on May 24, 2023.”

3. It was the submission of Mr. Rizwan that the Administrator had already taken over the charge of the Society in terms of the order of the RCS dated February 17, 2023.
4. On the last date of hearing, Mr. Udit Malik had sought some time to take instructions. As per Mr. Malik, the Administrator had taken over the charge much before order dated March 15, 2023 was passed. According to him, the Society was not co-operating with the Administrator in handing over the documents to him.
5. Mr. Akshay Bhardwaj, appearing for the Society, would submit that the RCS while issuing letter dated February 17, 2023, appointing the Administrator, has not heard the Society as the Society was already in appeal before the Delhi Co-operative Tribunal challenging the award of the Arbitrator. According to him, appropriate shall be that the Delhi Co-operative Tribunal decides the appeal, which is coming up for hearing

tomorrow.

6. Having noted the submissions, more specifically of Mr. Malik, that Administrator had already taken over the charge, and the fact that the Delhi Co-operative Tribunal is seized of the appeal, which is listed tomorrow i.e., May 25, 2023, we deem it appropriate to dispose of this appeal by staying the effect of the order dated March 15, 2023 whereby the Delhi Co-operative Tribunal has directed the Administrator not to take over the charge of the Society and further directing the Delhi Co-operative Tribunal to hear the counsel for the parties tomorrow i.e., May 25, 2023 and decide the appeal within a period of one week thereafter i.e., on or before May 31, 2023.

7. With the above, the petition along with the pending applications is disposed of.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

MAY 24, 2023/ds

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