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

% *Date of decision: May 10, 2023*

\+ W.P.(C) 14628/2021, CM APPLs. 46094/2021, 52370/2022 and 20796/2023

N K SAREEN ..... Petitioner

Through: Mr. Piyush Sharma and Mr. Dushyant Dahiya, Advs. with Mr. N. K. Sareen and Ms. Bulu Sareen, petitioners in person

versus

THE REGISTRAR OF COOPERATIVE SOCIETIES & ANR. ..... Respondents

Through: Mr. Udit Malik, ASC for GNCTD Ms. Rashmi Chopra, Mr. Srivats Kaushal, Ms. Vatsala C. Chaturvedi, Mr. Puneet Rathi and Ms. Sehr Chopra, Advs. with Mr. Shivaji Samaddar, President and Mr. A.R. Das, Treasurer of R-2

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. In terms of order dated February 09, 2023, we had directed the DIAC to appoint a Chartered Accountant/Commissioner from their panel to carry out the mandate of this Court in terms of order dated December 22, 2022.

2. The DIAC has appointed Mr. Sanjeev Ahuja, CA, LLB, the Chartered Accountant. The Chartered Accountant has submitted his report and the

petitioner has filed the copy of the report of the Chartered Accountant along with CM APPL. 20796/2023.

3. Ms. Rashmi Chopra, learned counsel appearing for the society, acknowledges the report annexed as Annexure P-1, to the application.

4. We have heard Mr. Piyush Sharma and Ms. Chopra for some time. Ms. Chopra and the representative of the Society would contest the conclusion arrived at by the Chartered Accountant. According to them, the Chartered Accountant has granted the interest on the amount due in favour of the Society at 17% p.a. only and not the compounding interest. This according to them is because the Society is paying interest on the loan taken on compounding basis.

5. They have also left it to the Court to decide the issue of the amount payable by the petitioner to the Society.

6. On the other hand, Mr. Sharma states that the amount calculated by the Chartered Accountant is acceptable to the petitioner. In fact, the petitioner has brought a cheque in the name of the Society which he shall tender to the representative of the Society.

7. Having heard the learned counsel for the parties, we find the conclusion of the Chartered Accountant on the aspect of interest is the following:-

> *" xxxx xxxx xxxx*
>
> *The mention of **<u>17% Interest on dues & delayed payments</u>** in the award is a safe **<u>percentage of interest</u>** to be made applicable to the dues accruing all through at various points in time. This avoids playing with various rates applied by society, over the period, which were not consistently followed in any case.*
> *An important observation at this stage was regarding the effect of **<u>'compounding'</u>** on the dues, leading to charging interest on*

interest which led to the total dues from the petitioner ballooning up over the period. There has been no convincing argument put forth by society justifying the application of interest on interest. Many hypothetical situations were brought forward as justification for this act, none of them being convincing enough to accept the treatment followed. Society could have only charged interest on a per annum basis on net payable and due (leading to a simple interest only). The time value of money needs to be surely compensated as society ended up paying from its pool to avoid a default in meeting its own commitments to DCHFC and charging of interest on the delayed/defaulted instalments just does the same.

xxxx xxxx xxxx"

8. Having perused the report of the Chartered Accountant we find that the conclusion arrived at by the Chartered Accountant is justified in the facts. To put quietus to the dispute between the parties, we allow the petitioner to tender the amount as calculated by the Chartered Accountant being ₹9,92,307/- to the Society. In fact, Mr. Sharma has handed over a cheque to Ms. Chopra in the presence of representative of the Society.

9. During the course of hearing, our attention has been drawn to paragraph 6 of this application wherein petitioner has sought certain documents from the Society.

10. Ms. Chopra on instructions states that the documents as required to be given to a member of the Society as per norms, shall be given to the petitioner as and when the petitioner approaches the Society. The statement is taken on record.

11. We make it clear, the conclusion of ours, is in the peculiar facts of this case and shall not be treated as precedent.

12. Learned counsel for the parties state, in view of the above order,

nothing further survives for adjudication in this writ petition, the petition and applications be disposed of as such. It is ordered accordingly.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

MAY 10, 2023/*ds*