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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1507/2024 and CM APPL. 6223/2024, CM APPL. 6224/2024**

PAWAN KUMAR AGGARWAL Petitioner
Through: Mr. Madhu Mukul Tripathi and Mr.
R.P. Arora, Advocates

versus

GOVT OF NCT OF DELHI AND ORS Respondents
Through: Mr. Satyakam, ASC for GNCTD
Mr. Vivek Kumar Tandon, Ms.
Perna Tandon and Mr. Darshnik
Narang, Advocates for R-3

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Date of Decision: 02nd February, 2024

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present petition under Article 226 of the Constitution of India impugns the order dated 19th January, 2024 passed by the Registrar Cooperative Societies ('RCS' or 'Respondent No. 2') insofar as it includes the Petitioner's Flat no. E-604 ('subject Flat') and issues a direction for vacation.
2. Learned counsel for the Petitioner states that the direction issued by Supreme Court of India to the RCS was only with respect to the 27 flats



enlisted in the order dated 23rd February, 2016 passed by the High Court in W.P.(C) No. 7227/2013 and connected matters. He states that the subject Flat number finds no mention in the said order. He also relies upon the order dated 13th September, 2018 passed subsequently in the said writ petitions.

2.1 He states that even the earlier order dated 03rd July 2023 passed by the RCS refers to eight (08) illegal occupants. He states that therefore, the impugned order wrongly includes a direction with respect to the subject Flat for eviction. He states that the Petitioner herein had applied to DDA for conversion of his Flat from leasehold to freehold, which was allowed on 20th January, 2012 and therefore, the settled rights of the Petitioner cannot be interfered with.

3. In reply, learned counsel for Respondent No. 2- RCS states that the contention of the Petitioner that order dated 23rd February, 2016, was limited to 27 Flats is incorrect. He relies upon the reference to an earlier order dated 29th October, 2010, passed by the High Court relying upon the report of the administrator to conclude that 31 Flats were allotted by the Managing Committee without a draw of lots being held by DDA. He states that therefore, the illegality in allotment and occupation was with respect to 31 Flats and not 27 Flats as alleged by the Petitioner.

4. We have heard the learned counsel for the parties and perused the record.

5.

It is undisputed that the Petitioner before this Court bought the subject Flat on GPA from Ms. Madhu Gupta (membership no. 411); however, the said Ms. Madhu Gupta's name was never approved for allotment either by DDA or RCS. On the contrary, as per the records of DDA, the subject Flat No.



604 was allotted by DDA vide letter dated 17th April, 2002, to Mrs. Anjana Singh (membership no. 351). It appears that the then Managing Committee permitted Mrs. Anjana Singh and Ms. Madhu Gupta to mutually transfer the subject Flat without permission from RCS and DDA. It was in this manner that Ms. Madhu Gupta came in possession of the subject Flat.

6. Further, Mrs. Anjana Singh who was a valid allottee of Flat No. E-604 has been illegally permitted to swap her Flat with Ms. Madhu Gupta and to occupy Flat No. B-404, without approval of RCS and DDA; and this permission to occupy granted by the Managing Committee has been held to be illegal by the RCS in his order dated 03rd July, 2023. As per the records of the RCS Flat No. B-404 remains unallotted. The RCS has also declared that the exchange between the flats is illegal in the impugned order dated 19th January, 2024.

7. The RCS has returned a finding that neither Ms. Madhu Gupta nor the Petitioner could be placed in the seniority list of 31 members finalised on 5th April 2023. The RCS has thus concluded that the Petitioner is an ineligible member. The Petitioner herein is claiming through Ms. Madhu Gupta (membership no. 411) and since Ms. Madhu Gupta's membership has not been held to be valid, the impugned directions issued by RCS for vacation does not merit any interference. Even before this Court, the Petitioner has been unable to produce any valid letter of allotment of a Flat in the society in Ms. Madhu Gupta's favour from DDA or a letter of the RCS recognising Ms. Madhu Gupta's membership.

8. In this Society therefore, in pursuance to a single allotment letter issued by DDA, the Managing Committee of the Society permitted two members to occupy two separate Flats. For e.g. against the single allotment



made by DDA in favour of Ms. Anjana Singh, both Flat No. E-604 and Flat No. B-404 are being occupied. This anomaly is sought to be rectified by the RCS.

9. In these facts, the RCS has directed the Petitioner to vacate the subject Flat on account of the illegal exchange carried out by the valid allottees of the subject Flats, which has created double occupation under single allotment letter.

10. The fact that the Petitioner herein is not claiming through Ms. Anjana Singh is also evident from the contents of the RCS order dated 3rd July, 2023 as the said Ms. Anjana Singh is occupying Flat B-404 in her independent right as a member. The aforesaid exercise of verification has been undertaken by RCS in pursuance of the orders passed by the Supreme Court in SLP (C) No. 17313-17316/2017 titled *Nirmal Rani v. Registrar of Cooperative Society*, which is pending consideration. The order dated 5th December, 2023 passed by Supreme Court unequivocally directs the RCS to identify the ineligible members and take steps for their eviction.

11. This Court finds no ground to interfere in the impugned order. The present petition along with applications is dismissed.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 2, 2024/msh/hp/sk