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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1511/2024 and CM APPL. 6235/2024, CM APPL. 6236/2024**

MS. BIMLA RANI AND ORS Petitioners
Through: Mr. Madhu Mukul Tripathi and Mr.
R.P. Arora, Advocates

versus

GOVT OF NCT OF DELHI AND ORS Respondents
Through: Mr. Vivek Kumar Tandon, Ms.
Purna 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 Petitioners Flat nos. D-704, E-502, E-601 and B-703 ('subject Flats') and issues a direction for vacation.
2. Learned counsel for the Petitioners states that the direction issued by Supreme Court 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 numbers find no mention in the said orders. He also relies upon the order dated 13th September, 2018 passed subsequently in the said writ petitions.

2.1. He states that the RCS as per the order dated 17th August 2009 passed by this Court in WP(C) 12594/2004 and connected matters was directed to ensure that 29 flats, which had not been formally and legally allotted be vacated, but the names of the Petitioners or the Flats owned and occupied by them did not form part of 29 flats directed to be vacated.

2.2. 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 Flats for eviction. He states that the Petitioners herein are in settled possession of the subject Flats and they cannot be evicted.

3. In reply, learned counsel for Respondent No. 2- RCS states that the contention of the Petitioners 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 illegally 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 Petitioners.

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

5. In the facts of the present case the Petitioners were permitted to occupy Flat No. D-704, E-502, E-601 and B-703, along with letter of possession and authority of letter of possession by the then Managing



Committee of the Society; however, it remains undisputed that their names were never approved for allotment of the subject Flats either by the DDA or RCS. On the contrary, as per the records of the DDA, the subject Flats were allotted to Mr. G.S. Bawa (membership no. 249 was allotted Flat No. D-704), Mr. Sanjeev Bindal (membership no. 383 was allotted Flat No. E-502), Mr. Gurdail Sharma (membership no. 342 was allotted Flat No. E-601) and Mr. Vijay Manchanda membership no. 360 was allotted Flat No. B-703) respectively. It appears that then Managing Committee permitted the aforesaid Mr. G.S. Bawa, Mr. Sanjeev Bindal, Mr. Gurdail Sharma and Mr. Vijay Manchanda to exchange the subject Flats with unallotted Flats, without the permission from RCS and DDA. It was in these circumstances that Petitioners, who were otherwise not eligible for allotment, came in possession of the subject Flats.

6. To sum up, Mr. G.S. Bawa (membership no. 249), Mr. Sanjeev Bindal (membership no. 383), Mr. Gurdail Sharma (membership no. 342) and Mr. Vijay Manchanda (membership no. 360) who were valid allottee of Flat Nos. D-704, E-502, E-601 and B-703 respectively had been illegally permitted to swap and occupy Flat Nos. D-301, D-101, B-104, C-202, by the then Managing Committee of the Society. The said swapping/transfer has been held to be illegal by the RCS in the impugned order dated 19.01.2024.

7. The RCS has returned a finding that neither of the Petitioners could be placed in the seniority list of 31 members finalised on 05.04.2023. The RCS has thus concluded that the Petitioners are ineligible members. Even before this Court, the Petitioners have been unable to produce any valid letter of allotment of a Flat in the society in their favour from DDA or a letter of the RCS recognising their 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 Mr. G.S. Bawa, both Flat No. D-704 and Flat No. D-301 are being occupied. This anomaly is sought to be rectified by the RCS.

9. It is in these facts, the RCS has directed the Petitioners to vacate the subject Flats on account of illegal exchange carried out by the valid allottees of the subject Flats, which has created double occupation under single allotment letter issued by the DDA.

10. The aforesaid exercise of verification has been undertaken by the RCS in pursuance of the order passed by the Supreme Court in SLP (C) No.17313-17316/2017 titled as *Nirmal Rani v. Registrar of Cooperative Society*, which is pending consideration. The order dated 5th December, 2023 passed by the 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

FEBRUARY 2, 2024/hp

MANMEET PRITAM SINGH ARORA, J
Click here to check corrigendum, if any