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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 10665/2022****MEENA SAJNANI**

..... Petitioner

Through: Ms. Meera Kaura Patel, Mr. Tejas Patel, Ms. Ritika Saini, Ms. Muskaan Gandhi, Ms. Ritika Saini, Mr. Piyush Goel, Mr. Aditya Kumar Tripathi, Advocates

versus

REGISTRAR (CO-OPERATIVE SOCIETIES)**AND ORS.**

..... Respondents

Through: Mr. Sameer Vashisht, ASC(C) GNCTD with Ms. Harshita Nathrani, Adv.
Ms. Mrinalini Sen, Standing Counsel for DDA with Ms. Neha Panchal, Advocate
Mr. Ajay Kumar Kaushal in person, Administrator/R-3

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Date of Decision: 17th May, 2024**CORAM:****HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****JUDGMENT****MANMOHAN, ACJ : (ORAL)**

1. Present petition has been filed under Article 226 of the Constitution of India, seeking a direction to the Registrar Co-operative Societies ('RCS') i.e., Respondent No. 1 herein, to update its records to reflect the name of the Hon'ble Chief Justice of India Dr. A. S. Anand (Retd.), as an allottee against the Flat No. 184, Tower-8, Supreme Enclave, Mayur Vihar, Phase -1, Delhi-110091 ('subject flat'), in place of an ex-member, Sh. B.S. Shant, in a time bound manner. It is also prayed that a consequential direction be issued to



Delhi Development Authority ('DDA') i.e. Respondent No. 2, to convert the subject flat into freehold in the name of the Petitioner herein i.e., Ms. Meena Sajnani.

2. The admitted facts of this case which are relevant for the adjudication of the present petition are that one Shri B.S. Shant was enrolled as a member of the Supreme Co-operative Group Housing Society Ltd. ('Society') i.e., Respondent No. 3, and held membership no. 276. The subject flat was originally allotted by the Society to Shri B.S. Shant on 18th July, 1992 through the Phase-I draw.

2.1. However, subsequently, due to non-payment of the Society dues and premium against the subject flat, Shri B.S. Shant was expelled from the membership of Respondent No. 3 Society *vide* resolution dated 06th December, 1993, passed during the General Body Meeting of the members of the Society.

2.2. As a result of the vacancy created by Shri. B. S. Shant's expulsion, Justice Dr. A.S. Anand was invited and enrolled as a member of the Society and was allotted Membership No. 537, *vide* resolution dated 14th May, 1994 passed by the Managing Committee. A share certificate dated 02nd June, 1994 was issued in favour of Justice Dr. A.S. Anand and further, *vide* resolution dated 15th July, 1994, it was decided to allot the subject flat i.e., flat no. 184 in the Phase-2 to Justice Dr. A.S. Anand.

2.3. *Vide* letter dated 21st August, 1994, the Society requested Justice Dr. A.S. Anand, to take possession of the subject flat i.e., flat no. 184, after completing the formalities.

2.4. Sh. B.S. Shant, *vide* an application dated (received by the Society on 27th July, 1994), had requested a refund of the amounts deposited as call



money for the flat no. 184 and the same was allowed vide resolution dated 04th October, 1994.

2.5. It is stated by the Petitioner that on 20th May, 2004, Justice Dr. A.S. Anand, transferred his rights in the subject flat to the Petitioner herein by executing a General Power of Attorney ('GPA') and Agreement to Sell ('ATS') both dated 20th May, 2004. The said transfer by Justice Dr. A.S. Anand in favour of the Petitioner was allowed by the Society vide resolution dated 17th July, 2004 and a share certificate dated 31st July, 2004 was issued by Respondent No. 3 in favour of the Petitioner herein.

3. The cause of action for filing the present writ petition arose when Petitioner applied to Respondent No. 2 i.e., DDA on 08th May, 2019 for converting the subject flat into a freehold apartment. However, the said application is pending till date, as the records of Respondent No. 2, continue to reflect the name of Sh. B.S. Shant as an allottee for the subject flat, whereas, the GPA and ATS relied upon by the Petitioner have been executed by Justice Dr. A.S. Anand. To enable processing of the application, DDA in 2019 directed the Petitioner to have name of Justice Dr. A.S. Anand cleared from the RCS i.e., Respondent No. 1.

4. The record evidences that since then the Petitioner has been following up with the RCS i.e., Respondent No. 1, for updating its records so as to substitute the name of Sh. B.S. Basant with the name of Justice Dr. A.S. Anand. The correspondence exchanged with RCS and clarifications issued by Respondent No. 3 Society to the RCS substantiating the request of the Petitioner have been placed on record. However, the RCS failed to update its records and in these facts, the Petitioner was constrained to file the present writ petition seeking directions to the RCS and DDA.



5. After perusal of the record, this Court *vide* order dated 10th January, 2024 directed the RCS to process the application filed by the Petitioner herein for updating the record of the RCS with respect to the change of name of the allottee of flat no. 184 as Justice Dr. A.S. Anand. To facilitate the order dated 10th January, 2024, the Society *vide* detailed letter dated 05th February, 2024, addressed to the RCS confirmed that as per its records, flat no. 184, had been allotted to Justice Dr. A.S. Anand, after the expulsion of Sh. B.S. Shant.

6. However, on the last date of hearing i.e., 25th April, 2024, RCS placed on record its communication dated 23rd April, 2024 addressed to the Administrator of the Society seeking clarification with respect to a discrepancy noted in view of an affidavit dated 01st June, 2015 submitted to it by the erstwhile President of the Society.

7. The Administrator has since *vide* his letter dated 13th May, 2024, issued the desired clarification to the RCS and reiterated that the flat no. 184 has been duly allotted to Justice Dr. A.S. Anand in the year 1994, after the expulsion of Sh. B.S. Shant; and the said Sh. B.S. Shant has also collected the refund of the call money paid by him. The Administrator is personally present before the Court today and submits that in view of the record, there is no impediment in the RCS updating its record to reflect the name of Justice A.S. Anand as the allottee of flat no. 184.

8. In view of the admitted facts noted above and on a conjoint reading of the letters dated 05th February, 2024 and 13th May, 2024, issued by the Society to RCS, we are of the considered opinion, that there is no impediment for the RCS, to update its records to reflect the name of Justice Dr. A.S. Anand, as the allottee of flat no. 184.



9. The declaration in the affidavit dated 01st June, 2015, furnished by the erstwhile President of the Society, with respect to the name and membership of the allottee of flat no. 184, is clearly erroneous as it is contrary to the record of the Society; and more particularly, the resolutions dated 06th December, 1993, 14th May, 1994, 15th July, 1994 and 04th October, 1994. The said affidavit can therefore, not form the basis for denying the prayer of the Petitioner for updation of records.

10. We, accordingly, allow the present petition and direct the Respondent No. 1 i.e., RCS to update its records to reflect the name of Hon'ble Chief Justice of India (Retd.) Dr. A.S. Anand, as the allottee against the Flat No. 184, Tower-8, Supreme Enclave, Mayur Vihar, Phase -1, Delhi-110091, in place of Sh. B.S. Shant, within four weeks from today. The Respondent No. 1 is directed to forward the requisite information with respect to the updation of its records to Respondent No. 2-DDA within two weeks thereafter. It is, further, directed that Respondent No. 2-DDA upon receiving the requisite information from Respondent No. 1-RCS, shall proceed to process the Petitioner's application, for converting the subject flat to freehold in the name of the Petitioner, as per the applicable procedure within six weeks thereafter.

11. With the aforesaid directions, the present petition stands allowed along with pending applications.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 17, 2024/msh/MG