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

% **Date of decision: 14th October, 2024**

+ **CONT.CAS(C) 814/2022 & CM APPL. 33848/2022**

RAKESH KISHOREPetitioner

Through: Petitioner in person.

versus

NARESH SAXENA & ORS.Respondents

Through: Mr. Dileep Poolakkot, Adv. for
R-1 to R-3.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. The petitioner seeks initiation of contempt proceedings against the respondents No. 1 and 2, who are the officer bearers of the management as well as respondent No.3/Registrar of Co-operative Societies for the wilful disobedience of directions contained in the order dated 07.12.2006 passed by Delhi Cooperative Tribunal in Appeal bearing No. 126/2005-DCT.

2. Having heard the petitioner, who is a practising Advocate and the learned counsel for the respondents, it would be expedient to reproduce the operative portion of the order, which goes as under:

“Thus the whole matter has been handled by the Society in a very doubtful manner. It appears to us that the General Body, which has considered the matter more than once, has actually been unable to reach the final decision. In the circumstances, it is desirable that the action of the M.C. allotting the chutes to some of the members and asking the present occupants to vacate them, deserves to be set



aside. The matter actually needs to be deliberated again in the G.B. meeting which should try to evolve a consensus for using these chutes for the purpose of the garbage clearance; and if no consensus is arrive at on this point then the society should approach the DDA to change the use of these garbage chutes and then auction them out among the members so that the highest bidder can get the chutes and the society, which is supposed to be in need of funds can earn reasonable amount of money from it.

In view of the above, the appeal is allowed. The award of the arbitrator dated 15.01.2005 as well as the M.C.'s decision dated 05.09.2003 are set aside and the society is directed to convene a meeting of the G.B. place the matter before it and take a fresh decision in the matter; on the lines indicated above.”

3. The case of the petitioner is that pursuant to the aforesaid order, the matter came to be considered in Annual General Body Meeting of the concerned Society on 31.10.2010, wherein it was resolved as under:-

“(iv) Regarding Garbage chutes case:

As desired by AGM, final Order, as passed by Delhi Cooperative Tribunal (DCT) on 07.12.2006 was again placed and read before the AGM.

It was informed to the AGM that in-compliance of final order of DCT dated 07.12.2006, the decision taken by AGM dated 28.09.2003, Agenda No. 3 (c) regarding the garbage chutes and MC's decision dated 05.09.2003 has been cancelled.

It is also informed to AGM that garbage space is the sole property of society and appropriate signage has been displayed. After detailed deliberations, AGM has decided unanimously to close the matter.”

4. The petitioner also refers to another Annual General Body Meeting held on 18.09.2011 wherein the following resolution was passed:

“Agenda No.5: Refund of Garbage Chute Money

The agenda was approved by AGM to comply with the order of Appellate Tribunal in full in view of Audit observations and few complaints in courts. It is resolved to refund the money to the existing flat owners without interest. In case of



Members/POA/Residents, who sold their flats and left: the society, this amount may be forfeited and transferred to Common Good Fund Account of society.”

5. The grievance of the petitioner is that although the aforesaid resolutions were passed, however, the Society has acted fraudulently, since no action has been taken to implement the said resolutions, and thereby order of the Tribunal dated 07.12.2006 is sought to be nullified.
6. The present contempt petition has been filed on 02.08.2022, which is clearly barred by limitation in terms of Section 20¹ of the Contempt of Courts Act, 1971. Hence, the present contempt petition is dismissed.
7. The pending application also stands disposed of.

DHARMESH SHARMA, J.

OCTOBER 14, 2024

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¹ **20. Limitation for actions for contempt.**—No court shall initiate any proceedings of contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.