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

\+ W.P.(C) 11692/2022 & CM APPL. 13255/2023

DELHI TRANSPORT CORPORATION AND ANR .....Petitioner

Through: Ms.Aditi Gupta, Adv for DTC.

Versus

BHAJANPURA COOPERATIVE URBAN THRIFT AND CREDIT SOCIETY & ORS .....Respondent

Through: Mr.Rajeshwer K Gupta, Adv. for R-1. Ms.Sihita Panday, Adv for Mr.Anuj Aggarwal, ASC for R-3.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE SAURABH BANERJEE

O R D E R

% **11.12.2024**

1. The present writ petition has been filed by the Delhi Transport Corporation assailing the order dated 10.12.2021 passed by the learned Financial Commissioner, rejecting the revision petition preferred by the petitioner by way of Case No.104/2021. Vide the impugned order, the learned Financial Commissioner has held the revision petition as not maintainable since the petitioners had an alternate remedy in the form of an appeal.
2. Learned counsel for the petitioners submits that after the passing of the aforesaid impugned order on 10.12.2021, the petitioners had in fact preferred an appeal before the Delhi Co-operative Tribunal being

Appeal No.17/2022/DCT. She further submits that this appeal was actually rejected vide order dated 14.03.2022 passed by the Tribunal by holding that the only remedy available to the petitioners was by way of a revision petition. She, therefore, prays for setting aside of the impugned order dated 10.12.2021 remanding the matter to the learned Financial Commissioner for consideration of the petitioners' revision petition on merits.

3. Learned counsel for the respondent no.1 the contesting respondent in the present case, relying upon a decision of the Co-ordinate Bench dated 28.03.2023 in ***Jain Co-operative Bank Ltd. V. Puneet Jain & Ors.***[W.P.(C)1588/2022] wherein this Court has held that a revision petition against the orders passed in execution proceedings would be maintainable, fairly submits that the revision petition filed by the petitioner was maintainable before the learned Financial Commissioner. In this regard reference may be made to the following extracts of the decision in ***Jain Co-operative Bank Ltd.*** *(supra)*:-

> *"10. The cardinal rule of construction of statutes is to read the statutes literally, i.e. by giving to the words their ordinary, natural and grammatical meaning. A bare reading of Sections 112, 113 and 114 of the Act reflects that the remedy of „Appeal" has been provided to by the statute only in respect of Clauses „(a)" to „(q)" of sub-Section 1 of Section 112. The appeal against Clauses „(d)", „(f)", „(g)", „(h)", „(i)", „(j)" & „(k)" of sub-Section 1 of Section 112 lies to the Tribunal, whereas, if the decision or order falls under Clause „(e)" the appeal lies to the Government.*
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> *The Delhi Co-operative Tribunal under Section 114 of the Act is competent to call for and examine the record only **of the proceedings in respect of which an appeal lies to it under Section 112 of the Act**. In the absence of any appeal being*

provided with respect to orders passed in execution under Section 105 of the Act, it is difficult to countenance that the Appeal is maintainable before the Tribunal. Even a bare reading of Section 116 of the Act providing for 'Revision' reflects that the "Revision" is maintainable in respect of ***'any proceeding not being a proceeding in respect of which an appeal to the Tribunal is provided by Section 114 of the Act'****.*

12. It may also be observed that a party cannot be left remediless in respect of the orders passed in execution proceedings unless specifically barred by the statute. In view of above, the petitioner correctly approached the Financial Commissioner by way of Revision Petition for challenging the impugned order passed by the Assistant Collector.

For the foregoing reasons, the impugned order dated October 01, 2021 passed by the Financial Commissioner is set aside. The Revision Petition filed by the petitioner accordingly stands revived, which shall be considered and disposed of by the Financial Commissioner in accordance with law. In the facts and circumstances, no order as to costs.

4. In the light of the aforesaid stand taken by the respondent no.1 as also the findings of the Co-ordinate Bench in ***Jain Co-operative Bank Ltd.***(supra), we find no reason not to adopt the same course of action.
5. The writ petition is, accordingly, allowed by setting aside the impugned order dated 10.12.2021 and remanding the matter back to the learned Financial Commissioner for adjudication of the petitioners' revision petition being Case No.104/2021 afresh.
6. It is, however, made clear that this Court has not expressed any opinion on the rival claims raised by the parties.
7. List before the learned Financial Commissioner on 21.01.2025. In case, the said date is inconvenient to the learned Financial Commissioner, the matter may be listed on any suitable date within

one week from the date fixed by this Court with notice to the learned counsel for the parties.

REKHA PALLI, J

SAURABH BANERJEE, J

DECEMBER 11, 2024/sr