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

+ **W.P.(C) 7221/2024 & CM APPL. 30098/2024**

MR. AJAY JAIN

..... Petitioner

Through: **Mr. Pawan Kumar Singh, Advocate**

versus

**REGISTRAR OF COOPERATIVE SOCIETIES, DELHI AND
ORS**

..... Respondents

Through: **Mr. Udit Malik, ASC, GNCTD with
Mr. Vishal Chanda, Advocate for R-1
Mr. Paras Jain, Advocate for R-2**

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Date of Decision: 20th May, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ: (ORAL)

CM APPL. 30099/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

W.P.(C) 7221/2024 & CM APPL. 30098/2024

1. Present writ petition has been filed under Article 226 of the Constitution of India, seeking quashing of the order(s) dated 30th April, 2024, passed separately, by the Registrar of Co-operative Societies ('RCS'), in Recovery Case No. 160/GH/DR/ARB/11-12/1191/212-213 and Recovery Case No. 160/GH/DR/ARB/11-12/1189/214-215, respectively, whereby, the



concerned Registrar has attached the Flat nos. M-1/56 and M-1/46, Vallabh Vihar Society, Sector -13, Rohini, Delhi ('subject properties'), respectively.

2. It is the stand of the Petitioner herein, that he is in possession and control of the subject properties and he admits, that he has not been paying the monthly maintenance charges payable to Atam Vallabh CGHS Ltd. ('Society') i.e. Respondent No. 2, since 2008 and 2010, respectively.

3. It is stated that due to the continuous non-payment of the said maintenance charges, Respondent No. 2 Society in the year 2011, filed a claim for the recovery of the said charges, before the RCS. Thereafter, the RCS appointed an Arbitrator to adjudicate upon the claim of the Respondent No. 2 Society, with respect to the outstanding maintenance charges pertaining to the subject properties.

4. Subsequently, the Arbitrator passed Award(s) dated 16th March, 2013, separately, in Arb. Case No. 160/ GH/DR/ ARB / 11-12 and Arb. Case No. 161/GH/DR / ARB/11-12, whereby the Petitioner was directed to pay Rs. 2,09,282/- and Rs. 88,815/-, respectively as outstanding dues against the Respondent No. 2 Society, as of 31st March, 2012, with a further direction that the future amount shall be calculated at 15% simple interest as on the date of actual payment by the Petitioner.

5. Since, the Petitioner herein, did not comply with the directions given in the Arbitral Award, Respondent No. 2 Society filed an application being an execution petition, before Respondent No. 1 for the enforcement of Arbitral Award(s) dated 16th March, 2013. Respondent No. 1, after hearing the parties and examining all the records, *vide* letter dated 30th August, 2018 under Rule 124(5) of the Delhi Co-operative Society Rules, 2007, issued notice but no further action was taken in this regard.



6. Thereafter, being aggrieved by the inaction of Respondent No. 1 in executing the Arbitral Award(s), Respondent No. 2, filed W.P. (C) 2798/2021, before this Court. This Court *vide* order dated 15th January, 2024, disposed of the said writ petition and thereby, directed Respondent No. 1, to enforce the arbitral award(s) dated 16th March, 2013 in a timebound manner.

7. The Respondent No. 1 *vide* order dated 30th April, 2024 attached the subject properties and *inter alia* returned the following findings on the objections filed by the Petitioner, in the execution proceedings: -

- a. Arbitral Award(s) dated 13th March, 2013, were duly served to the Petitioner herein, who is in the possession of the subject properties, against which the outstanding maintenance charges have remained unpaid.
- b. Petitioner's contention that the execution petition is not maintainable, because of the fact that recovery certificate is not in his name is of no consequence, as the subject properties are in possession of Petitioner.
- c. The Petitioner is under a legal obligation as the occupant of the subject properties to make payment of the outstanding maintenance charges and his non-membership does not affect his legal liability.

8. Having heard the learned counsel for the Petitioner, we are of the considered opinion, that there is no merit in the present petition. The Petitioner has not disputed the correctness of the fact findings returned by Respondent No. 1 in the impugned order(s). The Petitioner, admits the enjoyment of the subject properties and non-payment of the maintenance charges to Respondent No. 2 Society. In these admitted facts, the Petitioner



has failed to point out any infirmity in the impugned order(s); and considering that the Petitioner is a wilful defaulter of admitted dues, no ground is made out by the Petitioner for invoking the equitable writ jurisdiction on a perceived legal lacuna that the recovery certificate is not issued in his name. The liability to pay maintenance charges was determined as per the award(s) and the Petitioner was admittedly duly represented in the arbitral proceedings, where he contested the disputes. However, despite knowledge of the determination of the liability, the Petitioner has wilfully failed to make the payments. We are therefore not inclined to entertain the present petition and the same is accordingly dismissed along with pending applications.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 20, 2024/hp/MG/AKT