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

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

+ **CONT.CAS(C) 754/2021 & CM APPL. 35891/2021**

DR. RAKESH KISHOREPetitioner

Through: Petitioner in person.

versus

MR. NARESH SAXENA AND ORSRespondents

Through: Mr. Dileep Poolakkot, Adv. for
R-1 to R-6.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. The petitioner, who is a practising Advocate, seeks initiation of contempt proceedings against the respondents No.1 to 6, who are the officer bearers of the Ex-Management of the Arur Co-operative Group Housing Society (River View Apartments), Mayur Vihar Phase-I Extension, Delhi, hereinafter referred as the 'Society' and also against respondent No.7 Registrar Co-operative Societies.

2. Having heard the petitioner and the learned counsel for the respondents, this Court has no hesitation in concluding that contempt is not established in the present contempt petition. The petitioner refers to the order dated 30.05.2003 passed by this Court in W.P. (C) 6422/2002, where he challenged the deceitful imposition of an entry fee of ₹50,000 by the Ex-management committee of the Society. In that order, this Court held that the managing committee of the Co-



operative Group Housing Society could not legally charge any entry fee or any other form of payment, in light of the clear directives issued by the Registrar of Cooperative Societies under Rule 77 of the Delhi Cooperative Societies Rules, 1973.

3. Accordingly, deprecating the conduct of the respondent No.3 i.e. the officer bearers of the Society an amount of Rs. 50,000/- was ordered to be refunded to the petitioner through the Registrar General on recovery from the respondent No.3.

4. Perusal of the record shows that similar order came to be passed subsequently in the case of **Kusum Lata Gupta v. Registrar Cooperative Societies**¹.

5. The plea of the petitioner is that the managing committee continues to collect entry fees from other members of the Society, and thus argues that any violation or contravention of this Court's aforementioned directions would warrant contempt action against respondents No. 1 to 6.

6. It is pertinent to mention here that this Court *vide* order dated 23.11.2022, directed the respondent No. 7 i.e. Registrar of Co-operative Societies to adjudicate the Show Cause Notice dated 24.09.2019 filed as **Annexure-8** to the present petition and pursuant thereto, the respondent No.7/Registrar of Co-operative Societies has passed an order on 05.10.2023, wherein *inter alia* reference is invited to circulars/directives dated 14.12.1999, 10.10.2001 and 19.01.2002 passed under Rule 77 of the Delhi Cooperative Societies Rules, 1973 and holding that managing committee of the Society has been



arbitrarily/illegally charging entry fee in the name of development fund, transfer fee, common good fund or any other fee from the seller, as well as the new entrants who have purchased the of the flats in the said Society. Thus, Show Cause Notices have been ordered to be issued to respondents No. 1, 3 and 4 in the present petition along with the following details:

- “1. The list of cases where the management has sought entry fee in the name of Development Fund, Transfer fee, Common good Fund or any other fee from the Seller and Purchaser of the flat through GPA/sale deed/gift deed etc.
2. All the relevant receipts/counter foils of the payments has been done or received from the above said sale and purchases of flat on the account of Development Fund, Transfer fee, Common good Fund or any other fee in the name of Entry Fee.
3. Duly attested copy of ledger Account in the name of said fund.”

7. First things first, the present contempt petition has been filed on 11.10.2021 after elapse of more than 18 years, which is *per se* hit by limitation by virtue of Section 20² of the Contempt of Courts Act, 1971. Secondly, the petitioner cannot approach this Court in contempt proceedings by way of espousing a public cause or cause of the other members of the Society, who have chosen to pay entry fee to the management, although the same is not legally demandable. In the absence of any details who paid on what date and in what manner or on what pretext, it is for the individual members to seek appropriate refund by filing appropriate complaints with the Registrar of Societies.

8. Be that as it may, the respondent No.7/Registrar Co-operative

¹ Civil Writ Petition 14578-66 of 2004 dated 29.01.2007

² **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.



Societies is currently seized of the matter and it is expected that he would pass appropriate directions on the issue against the respondents in accordance with the law.

9. The present contempt petition along with pending application stands disposed of.

DHARMESH SHARMA, J.

OCTOBER 14, 2024

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