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

+ **W.P.(C) 16312/2023**

SUBEDAR SINGH

..... Petitioner

Through: Dr. K. S. Bhati, Mr. Karan Singh and
Mr. Kartik Burman, Advs.

versus

REGISTRAR OF COOPERATIVE SOCIETY & ANR.

..... Respondents

Through: None

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Date of Decision: 29th January, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T(ORAL)

1. The present petition has been filed seeking a direction to Respondent No. 1 i.e., Registrar Cooperative Society, Delhi ('RCS') and Respondent No. 2 i.e., the Administrator of Chopra CGHS Society Ltd. ('Society') to conduct elections in the said Society.
2. The Petitioner herein is one of the members of the Society and is the allottee of flat no. 322 therein.
3. Learned counsel for the Petitioner states that after filing of the present petition, elections have been scheduled for 4th February, 2024. Therefore, in



view of the said development, we are of the opinion that prayers 'a' and 'b' stand satisfied.

4. However, learned counsel for the Petitioner states that he is pressing for prayers 'c' and 'd' seeking withdrawal of the demand notice dated 7th August, 2023 ('demand notice') issued by the Administrator. He states that the Administrator cannot be permitted to settle the decree of award dated 28.09.2016 passed in favour of the Contractor i.e., M/s S.P. Repcon.

5. We have perused the demand notice dated 7th August, 2023 issued by the Administrator calling upon each of the member of the Society to pay a sum of Rs. 25,000/-, on or before 25th August, 2023, to satisfy the decree of award passed in favour of M/s S.P. Repcon, which is pending implementation in the execution petition filed before the District Court, Dwarka. It is an admitted position that the award has been passed against the Society and in favour of M/s S.P. Repcon for a sum of Rs. 14,84,757/- towards principal amount with liability to pay interest at 9% for the period 7th October, 2010 to 28th September, 2016 and interest at 18% for the period of 28th September, 2016 until the date of payment. Though, the said award has been challenged, no stay has been granted in favour of the Society by the concerned Court. The decree holder has filed an execution petition and it is during the pendency of the said execution proceedings, the Administrator has called upon the members to contribute a sum of Rs. 25,000/- each to raise an amount of Rs. 31,87,875/-. The Administrator has recorded in the demand notice that the aforesaid amount is raised at a discounted rate of interest of 9% in place of 18% to secure a settlement with the decree holder. He has recorded that the erstwhile management Committee has not set aside any amount in its balance sheet for the liability created after the passing of



the award in the year 2016.

6. Learned counsel for the Petitioner has not disputed the facts set out in the demand notice dated 7th August, 2023. He does not dispute that there is no stay of the award in the objection petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 ('Act of 1996') or that an amount of Rs. 40,92,519/- has become due and payable under the award as on 5th July, 2023. He does not dispute that the execution petition is pending and the Executing Court at Dwarka has issued directions therein. He states that however, the decision to settle the matter with the decree holder should not be taken by the Administrator and he should await the election of the Managing Committee.

7. An Administrator appointed by the RCS is empowered under Section 37 (3) of the Delhi Co-operative Societies Act, 2003 ('DCS Act') to perform all the functions of the Managing Committee and take all actions, which are required to be taken in the interest of the Cooperative Society. Therefore, the decision taken by the Administrator to settle the matter with the decree holder was within the jurisdiction of the Administrator. There is no dispute with respect to the existence of the monetary liability under the award and the Administrator by negotiating a reduction of interest liability from 18% to 9% has acted in good faith. In the admitted facts of this case, as recorded in the impugned demand notice, the decision of the Administrator was compelled by the exigencies of the legal proceedings pending in the execution petition. The Petitioner cannot obstruct the compliance of the execution proceedings or implementation of the award by seeking injunction of the demand notice in the present writ proceedings. The appropriate remedy to seek a stay of the award is only before the Court, which is hearing



the petition under Section 34 of the Act of 1996.

8. Accordingly, this Court finds no merit in the reliefs sought in prayers 'c' and 'd' and the present petition alongwith pending applications stands disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

JANUARY 29, 2024/rhc/aa

Click here to check corrigendum, if any