



2024:DHC:8187-DB



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

+ W.P.(C) 14653/2024, CM APPL. 61494/2024 & CM APPL. 61495/2024

THE JAGJIWAN COOP GROUP HOUSING SOCIETY LTD

.....Petitioner

Through: Mr.Rajeshwar Kr. Gupta, Advocate

versus

THE REGISTRAR OF COOPERATIVE SOCIETIES & ORS.

.....Respondents

Through: Ms.Mehak Nakra, ASC (Civil) with
Ms.Anjali Pandey, Advocate for R-1
& 2

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Date of Decision: 21st October, 2024

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, CJ : (ORAL)

1. Present writ petition has been filed challenging the order dated 03rd August, 2018 passed by Respondent No.1/Registrar of Co-operative Societies ('RCS') in Execution Petition No.2674-2004, whereby the petitioner-society was directed to comply with the order dated 31st March, 2003 passed by RCS and substitute name of Respondent No.3/Vasdev in place of his mother, Satyawanti in the records of the society with immediate effect.

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Signing Date: 22/10/2024
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2. The petitioner has also challenged the order dated 30th May, 2024 passed by the Respondent No.2/Financial Commissioner in Revision Petition No.354-2018, whereby the review petition filed by the petitioner, seeking review of order dated 30th November, 2021 passed by the Financial Commissioner was dismissed. Vide order dated 30th November, 2021, the Financial Commissioner dismissed the revision petition filed by the petitioner-society as not maintainable.

3. Learned counsel for the petitioner contends that the impugned order dated 03rd August, 2018 is in contravention of Rule 140(1) of the DCS Rules 1973 (new Rule 153(1) of the DCS Rules, 2007) read with Article 136 of the Indian Limitation Act, 1963 which provides that limitation for filing an execution application is twelve (12) years. He states that application for execution of the orders dated 31st March, 2003 & 23rd June, 2004 was filed by Respondent No.3 after more than fourteen (14) years. He contends that the impugned order dated 03rd August, 2018 does not fulfil the requirements of Section 37 of the DCS Act, 2003 or of the DCS Rules 2007 and thus, the same is illegal and *void ab initio*.

4. This Court finds that in the order dated 30th May, 2024, the Financial Commissioner has incorrectly stated that the said order will dispose of the revision petition. A perusal of the order dated 30th May, 2024 shows that the revision petition had been dismissed vide order 30th November, 2021 and, therefore, the only petition that remained to be adjudicated was the review petition filed by the petitioner-society seeking review of the order dated 30th November, 2021.

5. The argument that the execution application has been filed beyond the period of limitation, is misconceived and misleading. It is a matter of record



that RCS passed an order dated 31st March, 2003 in favour of Respondent No.3 directing the petitioner-society to substitute the name of Respondent No.3. The said order dated 31st March, 2003 was challenged before this Court in W.P.(C) 12182/2004 which was dismissed vide order dated 27th July, 2004. The order dated 27th July, 2004 was challenged in SLP No. 22529-2004, which was dismissed *in limine* vide order dated 16th November, 2004. Consequently, upon dismissal of the SLP, the order dated 31st March, 2003 has attained finality and it is not open to the petitioner to make any challenge to the order dated 31st March, 2003 at this stage.

6. This Court also finds that the Execution Petition had been filed in the year 2004 as is apparent from page 24 of the paper book, wherein an order passed in Execution Petition No.2674-2004 has been placed on record.

7. Consequently, this Court is of the view that Execution Petition No.2674-2004 was filed within limitation in 2004. Accordingly, the present writ petition along with applications being bereft of merit is disposed of.

MANMOHAN, CJ

TUSHAR RAO GEDELA, J

OCTOBER 21, 2024
AS