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

+ **W.P.(C) 16674/2024 & CM APPL. Nos.70540-41/2024**

B.K.GUPTA & ORS

...Petitioner

Through: **Mr. Randhir Jain with Mr. Anurag Mishra, Advocates.**

versus

REGISTRAR CO-OPERATIVE SOCIETIES & ORS. ...Respondents

Through: **Mr. Rishikesh Kumar, Addl Standing Counsel for GNCTD alongwith Ms. Sheenu Priya, Mr. Vikas Saini, Mr. Atik Gill, Mr. Sudhir Kumar Shukla and Mr. Sudhir, Advocates for GNCTD.**

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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03.12.2024

1. Present writ petition has been filed seeking direction to the respondents to form Apartment Owners Association of Geeta Apartment, Geeta Colony for maintenance and carrying out affairs concerning common facilities and common area under Delhi Apartment Ownership Act, 1986. The petitioners further seek directions to the respondents to restrain them from carrying out any action in the name of the respondent no. 3/society *vis-a-vis* maintenance and affairs of the common facilities and areas.

2. Learned counsel for the petitioners states that a group of persons masquerading in the name of the Governing Body of the respondent no. 3/society has usurped the status of a body for maintenance and upkeep of common areas, which is required to be undertaken by a body/ association of owners under the Delhi Apartment Ownership Act, 1986.

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3. He states that the said body does not even represent 15% of the total number of owners in the Geeta Apartment complex and has been running the affairs of the same in an illegal manner. He further states that the present owners of the flats are not allowed to participate in the Annual General Meeting (AGM) or in any other affairs and decisions regarding maintenance amount and other charges which are being imposed upon them.

4. He also states that the petitioners, who have not become members of the respondent no. 3/society, are being obstructed while moving in and out and unauthorized and unexplained penalties are being levied for no reason.

5. He further states that as per the provisions contained under Delhi Co-operative Societies Act, 1972 and Section 94 of the Delhi Co-operative Societies Act, 2003, the respondent No. 3/society had become defunct after allotting the flats to the individual members in 1993 and ceased to exist, however still certain persons are misusing its name.

6. He further states that the petitioner had sent a representation dated 1st July, 2024 to the respondent no. 1/RCS seeking directions to restrain the illegal working in the name of respondent no.3/society and for constituting a Residents' Welfare Association as envisaged and provided for in Delhi Apartment Ownership Act, 1986, and a reply to the same had been sought by the respondent no. 1/RCS from the respondent no.3/society, however no such response has been received till date despite sending a reminder on 11th October, 2024.

7. At the outset, after hearing learned counsel for the petitioners and from a perusal of the paper book, it is clear that the prevailing situation has been brought to the attention of the respondent no.1/RCS *vide* sending a representation dated 1st July, 2024. Further, there is no dispute about the fact that the said representation was sent by the respondent no.2/Assistant



Registrar, RCS to the respondent no.3/society seeking a reply to the same *vide* letter dated 19th August, 2024, wherein a copy of the last election result and the status of audit of the society was also asked for from the respondent no.3/society.

8. It is clear that despite a reminder dated 11th October, 2024 being sent by the petitioners, no response to the same has been received till date.

9. In light of the above, the present petition is disposed of with a direction to the respondent no.1/RCS to decide the representation dated 1st July, 2024 in accordance with law by way of a speaking order within four (4) weeks from today. The rights and contentions of all the parties are left open.

MANMOHAN, CJ

TUSHAR RAO GEDELA, J

DECEMBER 3, 2024/*rl*