

09.01.2025  
Sl. No.9  
Ct. No.15  
S.A.

**WPA 15846 of 2024**

**Mahadev Biswas**  
**-vs-**  
**The State of West Bengal & Ors.**

Mr. Krishnendu Banerjee  
Mr. Md. Idrish  
Mr. Ishan Ganguly  
...for the petitioner  
Mr. Santanu Kumar Mitra  
Mr. Subhabrata Das  
...for the State  
Mr. P. K. Roy  
Mr. Ankit Sureka  
...for respondent nos.2 & 3  
Mr. Srijan Nayak  
Mr. Partha Sarathi Pal  
...for respondent no.4

The petitioner is a member of a housing cooperative society, namely Swargabhumi Cooperative Housing Society Ltd., with its office located at Plot No. AE-50, Street No. 72, Action Area-1A, Kolkata-700156.

The petitioner contends that despite paying the total estimated cost of constructing his flat, which was assessed by the society as Rs. 3,00,000 (Rupees three lakh), the society has refused to register the flat allotted in his name by executing the deed of conveyance.

The society is not represented before this Court.

This matter was moved before a Coordinate Bench of this Court on June 27, 2024, and the following orders were passed:

“Considering the rival contentions of the parties and upon perusal of the materials on record this Court is of the view that, there is no contemporaneous demand shown to have been raised by the co-operative society that, the consideration in terms of the said **Allotment Letter** has not been paid. The co-operative society raised demands on account of various incidental charges. Assuming that, those incidental charges, claimed by the co-operative society, are due and payable, then also the registration of the Conveyance by the co-operative society cannot be withheld. The co-operative society may take steps against the petitioner for realization of the alleged incidental charges under the law but they cannot withhold the registration of the Conveyance.

For those reasons, this Court is of the firm view that, since a money claim has been raised against the petitioner, as stated above by the co-operative society, the petitioner will have to show its bona fide during pendency of the adjudication of this writ petition.

Accordingly, the petitioner is directed to deposit a sum of **Rs.3 lakh (Rupees three lakh only)** with the learned Registrar General of this Court within a period of **seven days** from date.

In the event such deposit is made, the learned Registrar General shall invest the said sum in an interest bearing fixed deposit account with any nationalized bank of her/his choice and shall file a report before this Court on the next day.

In the event, such deposit is made, the petitioner shall forward the copy of the money receipt through his learned advocate on record's forwarding letter to the learned advocate on record for the co-operative society and the co-operative society also in turn shall positively carry out all the necessary formalities and register the necessary Conveyance/Title document within a period of **three working days** from the date of receiving such intimation from the advocate-on-record for the petitioner.

The petitioner shall bear all incidental costs for registration of the

*Conveyance/Title document including the stamp duty.*

*The fate of the said deposit shall abide by the result of this writ petition.*

*The respondents shall file affidavits-in-opposition on or before **July 17, 2024.***

*Affidavit-in-reply, if any thereto, shall be filed on or before **July 31, 2024.***

*This order is passed without prejudice to the rights and contentions of the parties.*

*The writ petition shall appear under the heading “**Hearing (Co-operative Society)**” in the **Combined Monthly List of August, 2024.**”*

The petitioner appealed against this order, and the appeal was dismissed on September 24, 2024. The appellate court extended the time for the petitioner to deposit the money as directed by the learned Single Judge.

It is submitted by the learned advocate for the petitioner that the petitioner has already deposited the sum of Rs. 3,00,000 with the learned Registrar General, but the society has not yet executed the deed of conveyance.

It should be noted that a letter from the society, dated March 1, 2017, requested the petitioner to clear certain dues. The relevant portion of the letter is as follows:

*“As per resolution of last meetings, we the undersigned, directed to inform you the followings for your immediate attention for doing needful please.*

(a) To clear all pending contribution to the Society amounting Rs.1,14,454.00 immediately.

(b) To submit imprest accounts and to refund balance amount immediately to complete the Accounts of the Society for the Financial Year 2016-17. As per records of Society, you are to pay Rs.23001.00 only.

(c) To clear dues in connection with Electricity Bills amounting Rs.35000.00 approx. Your total consumption as per sub-meter reading as on 18.02.2017 at 6.30 p.m. is 3561 units. You have not paid any amount from the very beginning of staying in your flat and your electricity consumption bill amount was paid by the Society.

(d) To pay Rs.50000/- towards expenses on account of using additional marble in your floor.

(e) To pay Rs.54000/- (for one and half year @ Rs.3000/month) for using garage of the Society for keeping a commercial car.

You might be aware that a sizeable amount is to be paid by the Society to different vendors for the purpose of civil works, electrical offices for consumption of electricity power etc. immediately and for which there is a need to collect pending amount from members. Moreover, the Society intends to release the pending payments payable to different vendors within this financial year in order to ascertain project cost of Society's building."

The petitioner is an acknowledged shareholder of the society and has been allotted a flat in the society's building. Other members have had their flats registered, while the petitioner remains excluded.

This Court is not in a position to assess the justification for the society's claims. However, there is no doubt that the society cannot refuse to register the petitioner's flat in his name on the grounds of these unpaid dues.

In light of the above facts, I dispose of this writ petition with the following directions:

The sum of Rs. 3,00,000 deposited in accordance with the appellate court's order of September 24, 2024, shall be transferred to the society's account within three weeks from the date of this order. The society shall hold the money in a suspense account. Within one month from this date, the society shall execute the deed of conveyance in favor of the petitioner regarding the flat in question.

The society shall be at liberty to file a dispute case under Section 102 of the Cooperative Societies Act, 2006, before the concerned Registrar within two months from the date of this order, claiming the alleged unpaid dues from the petitioner. If such a dispute is raised, it shall be disposed of by the concerned Registrar in accordance with the law. If the Registrar determines that any amount is payable by the petitioner to the society, it shall be adjusted against the Rs. 3,00,000 held in the suspense account.

Should the society fail to file a dispute case within the specified period, the Rs. 3,00,000 will be refunded to the petitioner after expiry of two months from date.

Accordingly, **WPA 15846 of 2024** is disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties on compliance of usual legal formalities.

**(Kausik Chanda, J.)**