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IN THE HIGH COURT OF DELHI AT NEW DELHI*Date of Decision: 21st March, 2025*

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W.P.(C) 412/2021**OM PARKASH JHALANI**

.....Petitioner

Through: Mr. Bharat Bagga and Ms. Mansi Asija, Advocates with Petitioner in person.

versus

REGISTRAR COOPERATIVE SOCIETIES & ORS.Respondents

Through: Ms. Avni Singh, Panel Counsel for GNCTD/R-1/RCS. (M: 8982757684)
Mr. Rohit Kumar Modi, Adv. for R-2.
Ms. Kamna Singh, Adv. for R-3/DDA. (M:9899552770)

CORAM:**JUSTICE PRATHIBA M. SINGH****JUSTICE RAJNEESH KUMAR GUPTA****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner - Mr. Om Parkash Jhalani under Article 226 of the Constitution of India seeking allotment of a flat to the Petitioner in the Sant Tulsi Das Cooperative Group Housing Society, Plot No.14, Sector-14, Rohini, Delhi.
3. The case of the Petitioner is that he became a member of the Respondent No. 2 (hereinafter 'Society') on 19th May, 1986 and was issued a sale certificate on 9th March, 1987 by the Society. The copy of the said certificate is on record. The receipt dated 15th April, 1989, which shows the payment of sum of Rs.2,15,000/- towards the costs of the flat, is also placed on record. However, it is submitted that he has not been allotted the flat till date.



4. It is the Petitioner's case that he had repeatedly written to the Respondent No. 1/Registrar Cooperative Societies (hereinafter 'RCS') asking it to allot the flat in favour of the Petitioner since 1992 but to no avail. In fact the Petitioner had even preferred a writ petition being **W.P.(C).9249/2015**, before this Court which was disposed of *vide* order dated 16th August, 2016. The Court *vide* the said petition had heard the parties and directed the RCS to consider the application of the Petitioner within a period of 4 weeks upon verification of the relevant documents. The said order disposing of the writ, dated 16th August, 2016 reads as under:

“ It is submitted by counsel for the petitioner that the petitioner had paid the full amount including interest @ 12% per annum on 31.07.2016,

Mr Sanjay Jain, Assistant Registrar, Cooperative Societies is present in person in the Court and states that he has obtained copy of the relevant papers for verification. He further states that the papers will be examined within a period of 4 weeks from today and after the verification is complete, they will within 3 weeks thereafter send names of eligible members to the DDA.

The petitioner will visit office of Mr Sanjay Jain, Assistant Registrar, Cooperative Societies on 31.08.2016 at 2:30 pm. If there is any deficiency or issue, the petitioner would be given an opportunity to comply with the said deficiencies/issue within a period of 10 days.

The writ petition stands disposed of in terms of this order”

However, the issue seems to have not been resolved even thereafter. Thus this Petition has been filed in 2020.



5. At the outset it is noticed that the case record is filled with several letters and communications between the parties *i.e.*, the Petitioner, Society and the RCS starting as early as 1992 till 2020. Notice was issued in this matter on 21st January, 2021. Since then, replies of the RCS and the Society have been filed. A perusal of the short reply dated 2nd September, 2021 filed by the RCS would show that, pursuant to the order dated 16th August, 2016, RCS had in fact given an opportunity to the Petitioner and the Society to present relevant documents. However in the said hearing the Petitioner, as per the RCS, was not able to produce necessary documents. Thereafter RCS is stated to have written several letters to the Society and to the Petitioner calling upon them to submit all the documents for verification.

6. The reply also clarifies that, as of September 2021, the membership clearance of six claimants remain pending and 4 un-alloted vacant flats were available. The Society was asked to clarify the position of these 6 claimants against the 4 vacant flats. However, the said clarification having not been received till then, the allotment of flat could not take place.

7. On behalf of the Respondent No.3/Delhi Development Authority (hereinafter 'DDA') an affidavit dated 22nd December, 2021 has been filed stating that the issue of eligibility is to be decided by the RCS and only thereafter, the DDA can confirm and execute the sub-lease and conveyance deed in favour of the concerned member.

8. Further it is noted that, *vide* order dated 17th February, 2023, the RCS had undertaken to place the Petitioner's case before the Rule 90 committee (hereinafter 'Committee'). However, due to the inaction of the said committee, this Court, *vide* order dated 28th March, 2024, had again directed the said committee to decide Petitioner's application within a period of 12



weeks. Recently, an additional affidavit dated 6th January, 2025 has also been filed by the RCS informing that the Committee, pursuant to the said order had taken up the matter of the Petitioner and the following observations were made:

“The case of Sh Om Prakash discussed and it has been observed that MC Resolution vide which the claimant member is stated to have been enrolled has not been produced by the Society at any point of time, and the Society claimed that the same is untraceable. However in absence of such a resolution, it is difficult to ascertain that the member has duly enrolled by the Society as per provisions of the then prevalent DCS Act and Rules. Accordingly it is directed that Rule 90. Committee that before considering the case of membership clearance of the applicant namely Sh.Om Prakash, the said MC Resolution needs to be produced either by the Managing Committee of the Society or by the claimant himself.

Accordingly the applicant member may be informed and may be directed to produce the same”.

9. Therefore, according to the Id. Counsel for the RCS, the only objection that remains pending is that the Managing Committee Resolution, enrolling the Petitioner as a Member, has not been produced before the Rule 90 Committee by the Society.

10. To this the Society submits there is no Managing Committee Resolution approving the membership and this fact has been communicated to the RCS. Further, in the records of the Society the name of the member is ‘Om Parkash’ and not ‘Om Parkash Jhalani’.

11. The Court has heard the parties. The membership of the Petitioner dates back to 1986 and the sale amount has also been received way back in 1989. The membership certificate is on record. It is possible that the full surname of



the Petitioner may not have been written in the membership certificate. Instead of *Om Prakash Jhalani*, only *Om Prakash* has been written in the Share Certificate. The Society is not disputing the fact that the membership certificate was, in fact, issued to the Petitioner, whose identity is not in dispute. The RCS also does not have any serious objection except the fact that Managing Committee Resolution is not available with the Society.

12. The record dates back to the 1980s and it is possible that the records of the Society are not maintained properly. However, as long as the Society does not dispute the identity of the Petitioner, which it does not in its affidavit, there can be no hindrance in allotting the flat to the Petitioner.

13. In these facts and circumstances, it is directed that the RCS shall approve the allotment of the flat to the Petitioner and recommend the same to the DDA. The DDA shall, accordingly, allot the concerned flat in the name of the Petitioner.

14. At this point upon a query from the Court as to the availability of vacant flats, Id. Counsel for the Society submits that there are a total of three flats remaining. Accordingly, a draw of lots shall be conducted and flat shall be allotted to the Petitioner within a period of two months, subject to all dues to the Society being cleared by the Petitioner.

15. The petition is disposed of in the above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 21, 2025/dk/Ar.