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

+ **W.P.(C) 2821/2021**

GP. CAPT MK ABROL RETD.

.....Petitioner

Through: Ms. Ashna Abrol, Ms. Gayatri
Jamwal, Advocates.

versus

**CHOPRA CO-OPERATIVE GROUP HOUSING SOCIETY LTD.,
THROUGH ITS PRESIDENT/MANAGING COMMITTEE & ORS.**

.....Respondents

Through: Mr. Shyam Sunder Dalal & Mr.
Prajwal Sharma, Advocates for R1.

Mr. Shashi Pratap Singh, Ms.
Aishwarya Bhatia and Ms. Muskaan
Garg, Advocates for R2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

27.02.2025

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1. The petitioner has filed the present petition, *inter alia*, praying that respondent nos.1 to 4 be directed to issue the No Objection Certificate in favour of the petitioner for conversion of the residential flat from leasehold to freehold.
2. Additionally, the petitioner also prays to be absolved from his undertaking not to transfer or alienate his residential flat in question.
3. The petitioner claims that he served as a former officer of the Indian Air Force and become a member of respondent no. 1 society on 02.07.2003.
4. Respondent no.1 society was allotted a plot of land (Plot No.8, Sector-



23, Dwarka, New Delhi) for construction of one hundred and thirty-five number of dwelling units. The construction of the said residential unit was completed and a completion certificate was issued in the year 2014. Pursuant to a draw of lots conducted in the year 2016, the petitioner was allotted a flat being Flat No.161, 6th floor, Block-1, situated at Plot No.8, Sector- 23, Dwarka Phase, New Delhi-110075, admeasuring 1036 sq. ft.

5. It is stated that, in the meantime, certain other members whose membership was terminated and who were expelled, raised certain disputes regarding the membership of respondent no.1 society.

6. The petitioner was amongst the twenty junior most members and, therefore, handing over of the possession of flats to the said twenty members, including the petitioner, was held up.

7. Some of the members had filed a writ petition before this court, W.P.(C) 11164/2015, which was disposed of by an order dated 03.02.2016. We consider it apposite to set out the said order *in extenso*. The same is reproduced below:

“1. The petitioner seeks directions with respect to the first respondent - Registrar of Cooperative Societies, to the effect that their names should be duly verified and forwarded to the DDA for formal allotment of constructed flats. The facts are that the petitioners were enrolled as members of the 4th respondent (hereinafter referred to as ‘the Cooperative Society’). It is a matter of record that they paid all instalments towards loan for construction of the flat built by the society. Under provisions of the Delhi Cooperative Societies Act, the Registrar of Cooperative Societies is required — by virtue of Section 76 (3) to confirm the membership of such individuals after verifying their entitlement; i.e. those who may be entitled to allotment of housing units constructed by a given cooperative society. There is no dispute that the petitioners have deposited all amounts and have cleared their dues.



2. The Registrar of Cooperative Societies refers to the fact that the membership of several other individuals is in doubt and that there is possibility of rival claims being set up. The petitioners refer to the orders made by this court in ***Yogiraj Krishna Cooperative Group Housing Society Limited vs. DDA & Anr.*** W.P.(C) 10066/2004 decided on 25.08.2008, ***Naresh Kaushik vs. Bhagwati CGHS Ltd.*** W.P.(C) 11024/2009 and ***Shobha Tamar vs. Vijay CGHS Ltd.*** W.P.(C) 1536/2013. In all these proceedings the Court had issued directions to the Registrar to verify eligible members for confirmed allotment and consequential action by the DDA. The Registrar's concern in the present proceeding is that there is possibility of multiple claims.

3. This Court is of the opinion that the possibility of some individuals setting up rival claims to membership of the society based on their past records should not hinder the verification process given that the petitioners funded the constructions.

4. In the circumstances, the Registrar shall proceed to verify the petitioners' claims and pass appropriate orders within four weeks. At the same time it is open to the Registrar of the Cooperative Societies in the present case to necessitate that the petitioners furnish an appropriate undertaking/document stating that they would not transfer or sell the flat allotted to them as a consequence of the present order. Likewise, the society shall also furnish an appropriate undertaking not to register any transfer or pass any resolutions permitting transfer till such disputes are settled.

5. The writ petition is allowed in the above terms. The Registrar shall complete the process of verification and also indicate the appropriate form of undertaking to be executed as well as ensure that it is done in the manner suggested within eight weeks from today.

6. The writ petition is allowed in the above terms.

Dasti."

8. Although the petitioner was not a party to the said writ petition but he was similarly placed as the petitioners in the said case. Thus, the petitioner



had also furnished an undertaking as well as an affidavit affirming that he would not transfer or sell the flat allotted to him pursuant to the said order. Respondent no.1 society had also furnished an undertaking not to register transfer or pass any resolution permitting transfer of the flats till the disputes were settled.

9. More than nine years have since lapsed, and the petitioner has not been able to encumber or transfer the residential flat allotted to him on account of having furnished the undertaking as noted above.

10. It is the petitioner's case that all disputes raised by the expelled members including membership of three persons, have since been closed. Thus, it is not necessary that twenty junior most members be interdicted from dealing with their respective residential units on account of disputes pertaining to three expelled/terminated member.

11. We find merit in the said contention. Clearly, if the disputes are finally settled, it is not necessary to interdict any member from transferring or encumbering his residential units and the restrictions placed on the allottees are required to be lifted.

12. In view of the above, we direct the Registrar of Cooperative Societies (RCS) to examine the matter afresh and take an informed decision, bearing in mind the disputes that are pending. The interim arrangement, to the extent that it is necessary to address the contingency of the pending disputes being resolved in favour of the expelled or terminated members, must continue to be in force. If all but disputes relating to three flats are settled, the restrictions are required to be confined to only three junior most allottees.

13. Let the representation made by the petitioner be decided by a



speaking order within a period of three months from date.

14. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

TEJAS KARIA, J

FEBRUARY 27, 2025

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Click here to check corrigendum, if any