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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2793/2019**

RAMESH CHANDER

.....Petitioner

Through: Mr. Vivek K. Tandon, Mr. Virender Chaudhary, Ms. Rinku Tiwary, Ms. Kanika Rathode and Mr. Harshit S. Gahlot, Advocates.

versus

DELHI COOPERATIVE TRIBUNAL DELHI & ORS.

.....Respondents

Through: Mr. Atul K. Bandhu, Advocate for R-3.
Ms. Avni Singh, Panel Counsel with Ms. Prapti, Advocate for R-4.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **15.05.2025**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed on behalf of the Petitioner-Ramesh Chander Sharma under Article 226 of the Constitution of India *inter alia* assailing the impugned order dated 5th February, 2019 passed by the Delhi Corporative Tribunal ('DCT').
3. Vide the impugned order the DCT dismissed the application filed by the Petitioner herein under Order I Rule 10 CPC seeking impleadment in ***Appeal No. 94/17/DCT*** arising from ***Arb Case No. 3830/AR/Arb/10-11***. The relevant portion of the impugned order is extracted hereunder:

8. A perusal of his application reveals that late Sh. Hoti Lal Sharma, father of the applicant had applied for a flat vide application dt. 8.8.83 to the appellant society but he expired on 16.3.91. The appellant claims that his membership was transferred in the name of his wife (mother of the applicant Smt.



Chameli Devi) on 31.12.91. The applicant also claims to have paid sum of Rs.20,000/- on, 7.1.92 and Rs.15,000/- on 16.6.92 towards category B flat. However, initially name of Smt. Chameli Devi was detained by RCS in 1991 due to want of individual affidavit but later on 9.1.92 RCS cleared her name. He also claims that RCS officials in collusion with the then Secretary Sh. S. Baweja had shown that the documents were not submitted by applicant's father/ mother and the applicant stopped pursuing the case of membership in the appellant society. He also admits that he did not receive any communication from the society.

9. He is trying to be impleaded in the present appeal in which there appears no cause of action in his favour in a dispute between the society and respondent.

10. In our considered view the applicant is not a necessary party for determination of real dispute between the appellant and the respondent. The application is therefore dismissed.”

4. The entire dispute in this case is in respect of Flat No. 122 in Antriksha Cooperative Group Housing Society Ltd., Plot No. 21, Bodella, Phase-II, Vikas Puri, New Delhi (*hereinafter, ‘property’*).

5. A brief background of the present case is that the Petitioner claims to be the son of Mr. Hoti Lal Sharma, who was a member the society, Antriksha Corporative Group Housing Society Ltd. (*hereinafter, society’*). Mr. Hoti Lal passed away prior to the allotment of the flat being made. Hence, his wife Mrs. Chameli Devi the widow and the mother of the Petitioner sought allotment of the property in her name. The membership was approved by the Registrar of Cooperative Societies (*‘RCS’*) and the recommendation was sent to the Delhi Development Authority (*‘DDA’*). However, it is stated that the Petitioner was not informed the status of the said membership whether the DDA had made allotment or not.

6. In the meantime, the Petitioner came to know that the Respondent No.



3 – Mr. Nirmal Kumar Karan claimed rights in the same very flat and when there was a dispute between him and the Respondent No. 2 society, a claim was filed by him which was referred to arbitration. An award was passed in his favour in **Arbitration Case No. 3830/AR/ARb/10-11** which was appealed by the said society in **Appeal No. 94/2017/DCT**, titled as **Antriksha Cooperative Group Housing Society Ltd. v. Nirmal Kumar Karan & Anr.** In the said appeal, the Petitioner who had a right to the same flat filed an application for impleadment which was dismissed by the DCT vide the impugned order on the ground that the Petitioner ought to avail of his remedies independently. The DCT held that the Petitioner is not a necessary and proper party. It is this order passed by the DCT which is under challenge in the present case.

7. On a query from the Court, both the Counsels, Mr. Vivek K. Tandon and Mr. Vipin Singh, Id. Counsels for the Society submit that the appeal is still pending as the proceedings were stayed before the DCT vide order dated 19th March, 2019.

8. The short question that arises in this case is whether the Petitioner ought to be permitted to be impleaded in the proceedings before the DCT.

9. The answer would clearly be an affirmative as the Petitioner's right to the property arises from his father's membership in the society. It is not disputed by the society that the Petitioner was one of the members of the Society. However, as per the available records the allotment was pending with the DDA.

10. The administrator of the society in his letter dated 15th March, 2017 clearly states that the amount was paid by the deceased – Mr. Hoti Lal Sharma who was father of the Petitioner. The said letter is relevant and extracted



below:

“Sh. N.K.Karan was illegally enroll in the society in the year 1998 in place of Late Smt. Chameli devi w/o of Late Sh. Hoti Lai Sharma original member who had paid all the dues of the society including cost of land and cost of construction. The society had not made any efforts to trace the legal nominee/heirs of the original member Late Smt. Chemi Devi/ Hoti Lai Sharma. The amount paid by the decease are still lying in the society till date. The society enroll illegally Shri N.K.Karan without following the proper procedure as laid down in DCS Act & rules. No vacancy was advertise In any news paper that can be verified from the audit report for the year 1998-99 (copy enclosed). The RCS office was never informed about the enrolment of Shri N.K.Karan by the society. The membership of N.K.Karan has not been verified by the office of RCS till date.

The copy of letter dt. 7.3.2005, also enclosed for ready reference and the comments of M.C. Committee from the audit report 2014-15 are also enclosed.

The above information has been provided by the undersigned on the basis of record available in the society. The previous M.C. of the society had not handed over the record of the society even after issued the notice under section 38 of DCS Act. The RCS office also send the letter the concern officer for recovery of record.”

11. This letter having been written by the administrator of the society itself, makes it clear that even if the DDA has not allotted the flat formally, in favour of the Petitioner, it cannot be said the Petitioner is an alien or does not deserve to be heard in the pending appeal. The Petitioner is clearly a necessary and a proper party whose interest would be affected. Further, even the pleadings of Respondent No. 3 clearly record that allotment has been recommended by the society in favour of the Petitioner.



12. Under such circumstances, the non-impleadment of the Petitioner would lead to substantial injustice - the Petitioner's father having been member of the society, is definitely entitled to be heard in the pending appeal before the DCT.

13. Accordingly, the impugned order is set aside. The Petitioner shall now be impleaded as Respondent No. 4 in the ***Appeal No. 94/2017/DCT*** and shall be fully permitted to participate in the proceedings, till the appeal is decided. *Status quo* in the property shall be maintained.

14. Mr. Atul Bandhu, Id. Counsel for the Respondent No. 3 - Mr. Nirmal Kumar Karan, submits that since 1991, the Petitioner was not following upon the membership and, therefore, he was allotted the property.

15. Considering that substantial delay has already taken place in this matter, the appeal shall be decided by 30th September, 2025.

16. Accordingly, the present writ petition is disposed of in above terms. All the pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 15, 2025/MR/rks