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

Date of decision: 01st July, 2025

+ **W.P.(C) 9772/2018**

H S BANGA

.....Petitioner

Through: Mr. Abhay Gupta and Mr. Paramjeet Singh, Advs. with Petitioner in person.

versus

THE NAV JAGRITI CGHS LTD. & ANR.Respondents

Through: Ms. Avni Singh, Panel Counsel for GNCTD with Mr. Arun Rana, ASO, RCS.

Mr. Pranav Sachdeva, Mr. Abhay Nair and Mr. P. Rohit Ram, Advs. for R-3. Mr. Rajiv Shukla and Ms. Shivani Kapoor, Advs. for DDA.

2 AND

+ **W.P.(C) 14673/2021, CM APPL.46212/2021 & CM APPL. 5118/2025**

URMILA @ SUMAN DECEASED THROUGH LRS (SH. UTTAM CHAND)

.....Petitioner

Through: Mr. Pranav Sachdeva, Mr. Abhay Nair and Mr. P. Rohit Ram, Advs.

versus

THE NAV JAGRITI CGHS LTD & ORS.Respondents

Through: Ms. Avni Singh, Panel Counsel for GNCTD with Mr. Arun Rana, ASO, RCS.

Mr. Sanjay Katyal, SC, DDA with Ms. Ritika Bansal, Adv. for R-4/DDA.

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 writ petitions are another example of how a Cooperative Group Housing Society (hereinafter, 'CGHS') has caused harassment to its members for no valid reasons whatsoever.

3. The brief background of these two cases is captured below:

W.P. (C) 9772/2018 – H.S. Banga Vs. Nav Jagriti CGHS Ltd.

A Housing society being Nav Jagriti CGHS Ltd. (hereinafter, 'Society') was formed in the year 1979. The Petitioner - Mr. H.S. Banga, was among the founding members of the Society, and was allotted membership no. 6. The membership of Mr. H.S. Banga was terminated in the year 2008 by the Registrar Cooperative Societies (hereinafter, 'RCS') on the ground that Mr. Banga was ineligible to become a member of the Society due to the ownership of another flat in Dwarka, Delhi. This termination of membership was set aside by the Financial Commissioner, Delhi on 28th February, 2011.

4. However, Mr. Banga was still not allotted a flat in the Society. Therefore, he filed a writ petition before this Court being **W.P.(C) No. 8355/2014** titled '**H.S. Banga v. The Registrar Cooperative Societies and Anr.**'. Vide order dated 1st December, 2014, the said writ petition was disposed of with the following directions.

"1. The writ petitioner has filed the instant writ petition complaining that despite making full payments as per the demands raised by the respondent no.2-The Nav Jagriti Cooperative Group Housing Society Ltd., no flat is being allotted to him. He further submits that there is only a single HIG flat and the petitioner is the only member of the society who has been entitled thereto.

2. This is a matter which needs to be examined by the respondent no.1. We issue a direction that if the



petitioner approaches the respondent no.1 with the grievance made in the writ petition, the same shall be considered and dealt with by the respondent no.1 within two weeks of the receipt of the representation from the petitioner.

This writ petition is disposed of with the above directions.

3. It is made clear that nothing herein contained is an expression of opinion on the merits of the petitioner's claim.

Dasti.”

5. As per the above order, Mr. Banga was to make a representation which was to be considered and dealt with by the RCS within a period of two weeks. Pursuant to the said order being passed, Mr. H.S. Banga approached the RCS. However, a flat in the Society was still not allotted to Mr. Banga. Further, letters were written by Mr. H.S. Banga to the RCS. Finally, upon the recommendation of the RCS, the Delhi Development Authority (hereinafter, 'DDA') vide letter dated 16th October, 2015 approved the allotment of single HIG flat being flat no.10 in the Society to Mr. H.S. Banga.

6. Despite this being the position, the possession of the said flat was not given to Mr. Banga, after which the said Petitioner continued to write repeated representations to the concerned authorities. Thereafter, the present writ petition was filed by Mr. H.S. Banga seeking possession of flat no.10 in his favour. The prayers in this writ petition are as under:

“It is therefore most respectfully and humbly prayed that this Hon'ble Court may kindly be pleased to:

a. Allow the writ petition of the petitioner by commanding in the nature of mandamus thereby directing Respondent no.1 to give possession of single HIG flat bearing no.10 allotted to petitioner,



*b. Allow the writ petition and direct the Respondent No.1 to calculate the requisite amount to be paid by petitioner towards the membership/handling over charges if any paid by petitioner at the time of taking possession of the flat in presence of officials of respondent no.2,
c. Cost of the proceeding may also be awarded to the petitioner, and
d. Pass any further order as may deem fit and proper in favour of the petitioner and against the respondents.”*

7. Notice was issued in this petition on 16th October, 2018 in which a parallel story of one original member namely Mr. Kartara Ram was brought before this Court. The second writ petition is related to this member and the details of the same are set out below:

W.P.(C) 14673/2021 – Urmila @ Suman Vs. the Nav Jaqriti CGHS Ltd. & Ors.

8. Mr. Kartara Ram was also one of the founding members of the Society. It so happened that Mr. Kartara Ram had died and his wife, Mrs. Pritam Kaur had sought substitution in the membership in place of her husband, the original member. The same was not acceded to by the Society leading to the filing of a writ petition by Mrs. Pritam Kaur.

9. The writ petition being **W.P.(C) 8476/2007** titled ‘**Smt. Pritam Kaur v. Registrar Coop. Societies & Ors.**’ seeking substitution in the membership of the Society was allowed *vide* order dated 21st April, 2008. In the said order, it was recorded by the Court as under:

- “1. Rule D.B.
2. With the consent of the parties, we have taken up this writ petition for disposal as only a short question is involved.
3. Petitioner by this writ petition seeks execution



of order dated 28th August, 2002 as also a direction to the Society to hand over a flat of HIG category to the Petitioner, for which the entire payment has been made. Vide the said order passed in appeal it was held that Petitioner being widow of deceased Kartara Ram was entitled to transfer of the membership subject to furnishing Succession Certificate.

4. The reply tendered by Mr. Bhardwaj on behalf of the Society is taken on record. Mr. Bhardwaj appearing on behalf of the Society submits that there was failure on the part of the Petitioner to submit the Succession Certificate within the stipulated time of three months. Hence, the Respondents thereafter proceeded to treating the membership as vacancy especially in the absence of any communication from the Petitioner regarding the status of obtaining the Succession Certificate.

5. A cursory perusal of the pleadings on record and the dates and events tell a different story. The Society had initiated expulsion proceedings against several members including the deceased on account of default in payment of dues. In the view of the demise of Shri Kartara Ram and its intimation being given to the Society on 15th June 1999, the expulsion orders were passed against defaulting members except the deceased.

6. The Registrar, Cooperative Societies, vide its order dated 28th August, 2002 after reviewing the documentation on record and hearing the Petitioner's representatives as also the Respondent/Society held it to be entitled to membership being a class I heir and required her to produce a Succession Certificate from the competent authority. The Registrar also noted that the nominee of the deceased Shri H.D. Hirdi had no objection to the name of the widow being enrolled in place of Shri Kartara Ram. The Registrar also required the Petitioner to complete the documentary requirement within three months and furnish the Succession Certificate and directed the Society to transfer the membership in her name upon completion of the



formalities.

7. It is the Society's case that they received no further intimation from the Petitioner and on 21st July, 2004, a resolution was passed enrolling one Shri Shounak Roy son of Shri Sabyasanchi Roy, in the vacancy caused by the deceased, Shri Kartara Ram. Curiously, it is nearly one year and two months thereafter (28th September, 2005) that a cheque bearing no. 525964 for a sum of Rs. 3,97,001/- is sent to the Petitioner by way of refund which she declined to accept and returned the same under protest.

8. We are of the view that it is not open to the Society to raise issues regarding the default of the deceased and the expulsion proceedings that had been initiated earlier considering the order passed by the Registrar of Society on 28th August, 2002 referred to earlier wherein the Petitioner was required to complete the documentation formalities and obtain Succession Certificate. The only question arising is with regard to the delay in obtaining the Succession Certificate. In our view, requiring Petitioner to submit succession certificate within three months is a tall order granting the present state of litigation. In any case, this is not a statutory time limit. In our view, in the present circumstances, time deserved to be suitably extended till furnishing of Succession Certificate by the Petitioner. We may also note that the alleged resolution of 21st July, 2004 which is purported to have been passed two days before the date of decree appears to be a rare coincidence and it does not inspire confidence. The rights of the Petitioner cannot be extinguished in this manner.

9. We accordingly hold that the Petitioner is entitled to be substituted as member in place of her deceased husband having complied with requisite formalities and if there are any dues which are payable by the Petitioner, the same be paid within 30 days from today with such interest as is being charged from other members on the outstandings and as permissible in



accordance with the Delhi Cooperative Societies Rules.

10. Mr. Bhardwaj, learned counsel for the Respondent, states that no allotment or draw of lots has been made with regard to the membership of late Shri Kartara Ram and accordingly no rights, in our view, except of enrolment as a member by the Society in favour of Shri Shounak Roy have come into existence.

11. In view of our findings that the Petitioner was entitled to be substituted in place of her deceased husband no vacancy is deemed to have arisen which could be filled by any other applicant be it Shounak Roy or any other person. **The Society shall substitute the name of the Petitioner within one month upon payment of dues, if any, and completion of any other formalities to be notified within a week.**

12. Writ petition stands allowed in the above terms.”

10. As can be seen from the above order, insofar as the flat of Mr. Kartara Ram is concerned, his wife, Mrs. Pritam Kaur was held to be entitled to be substituted in the place of her deceased husband. However, this substitution was not carried out on the ground that certain documentation was not submitted. Mrs. Pritam Kaur also expired on 7th May, 2008 and her daughter, Smt. Urmila @ Suman then approached this Court for substitution in the membership of the Society.

11. The said substitution was allowed by this Court *vide* order dated 4th September, 2018 in contempt case being **CONT.CAS(C)498/2009** titled **‘Urmila Suman v. Bharat Singh & Ors.’**. The said order dated 4th September, 2018 reads as under:

“The learned counsel appearing on behalf of the respondent No. 1/Nav Jagriti Co-operative G/H Society,



*14, Jangpura Road, Bhogal, Jangpura, New Delhi-110014 states that they shall comply with the directions contained in the order of the Division Bench of this Court passed on 21st April, 2008, in W.P.(C) No. 8476/2007, titled as "Smt. Pritam Kaur vs. Registrar Coop. Societies & Others."; and **substitute the name of the petitioner in place of her deceased father, within a period of one month upon payment of dues, if any, and upon completion of other formalities, to be notified to the latter, within a period of one week.**"*

12. Smt. Urmila @ Sharma then filed the present writ petition being **W.P. (C) 14673/2021** seeking directions to the Society to hand over the possession of the flat no. 10 in her favour. This Court is informed that recently, Smt. Urmila @ Sharma has also passed away on 13th April, 2022. An application had been filed by her husband, Mr. Uttam Chand seeking substitution in her place as her legal heir. The substitution of her husband was allowed *vide* order dated 29th April, 2024. The said legal heir of Smt. Urmila @ Suman *i.e.* Mr. Uttam Chand has now filed the application being **CM APPL.5118/2025** in **W.P.(C) 14673/2021** titled '**Urmila @ Suman v. The Nav Jagriti CGHS Ltd. & Ors.**' seeking transfer of the Society's membership in his favour in place of his deceased wife Smt. Urmila @ Suman.

13. Heard ld. Counsels for the parties as also ld. Counsels for the RCS and the Society. The RCS has filed a status report dated 13th March 2025 pursuant to the order dated 9th January, 2025. The said status report has also been perused by this Court.

14. This Court is faced a situation where there are two members of the same society, who are seeking their respective flats. The confusion, which has been created, is due to the fact that Mr. H.S. Banga and the claimants on behalf of



Mr. Kartara Ram have been at loggerheads with each other for over the last 24 years – though in fact there is no conflict between them.

15. Insofar as Mr. H.S. Banga is concerned, he was the original member of the Society. Although his membership was terminated by the RCS, the same has been set aside by the Financial Commissioner, Delhi. With respect to Mr. Kartara Ram, after his demise, his wife Smt. Pritam Kaur had filed a writ petition seeking substitution in membership and her substitution was directed to be allowed *vide* order dated 21st April, 2008. However, before substitution could take place, Smt. Pritam Kaur also passed away and then her daughter Smt. Urmila @ Suman was pursuing the remedies for obtaining the possession of her parents' flat. Unfortunately, she also passed away on 13th April, 2022. Her legal heir *i.e.* Mr. Uttam Chand, who has now been recognized by this Court and has filed an application seeking substitution of the membership of the Society in his name.

16. Insofar as the RCS is concerned, the status report *qua* both the members reads as under:

“4. In the matter of Sh. Urmila @ Suman Vs The Nav Jagriti CGHS Ltd., Sh. Urmila @ Suman is the daughter of Late Sh. Kartara Ram who was a member of the society. He died on 08.10.1998 but the society refused to transfer the membership in the name of her wife Smt. Pritam Kaur who got an award dated 28.08.2002 in her favour from the Worthy RCS and further filed a Writ Petition 8476/2007 in the Hon'ble High Court of Delhi which vide order dated 21.04.2008 held the Ms. Pritam Kaur was entitled to be substituted in place of her deceased husband and the society shall complete the formalities within one month upon payment of dues. Ms. Pritam Kaur expired on 07.05.2008. Ms. Urmila @ Suman asked the society to



notify her all formalities and dues, if any, for the substitution of her name as a member of the society. The Hon'ble High Court in order dated 25.03.2019 notified that her name has been substituted in lieu of her father's name and she holds title of membership of the society.

5. *Simultaneously, in the other matter i.e. H.S. Banga Vs The Nav Jagriti CGHS Ltd., it is submitted that H.S. Banga was a member of the society and his membership was ceased vide order dated 27.11.2007 on account of purchase of a flat in other cooperative society which was set aside by FC order dated 28.02.2011. In further appeal vide W.P.(C) No. 8355/2014, RCS complied with the directions passed in W.P.(C) No. 8355/2014 and forwarded his name for draw of lots to DDA vide letter dated 08.06.2015 and the flat bearing no. 10 was allotted to him and the same was approved by DDA."*

17. A perusal of these two paragraphs would show that both Mr. H.S. Banga and Mr. Kartara Ram are valid original members of the Society. Insofar as Mr. H.S. Banga is concerned, the DDA has directed allotment of flat no.10 in his favour. The objection being raised by the claimants on behalf of Mr. Kartara Ram is that Mr. H.S. Banga is not the only legible member and the said claimants are also original members, who are entitled to the allotment. There are, thus, two competing parties and there is only one flat i.e. flat no.10.

18. The Court has perused the order dated 21st April, 2008, which reveals another fact that the membership of wife of Mr. Kartara Ram i.e. Smt. Pritam Kaur was terminated vide resolution dated 21st July, 2004 by the Society. The membership in her place was given one Mr. Shounak Roy S/o Shri Sabyasanchi Roy and a refund to the tune of Rs.3,97,001/- was also made to Smt. Pritam Kaur, which she had declined to accept.



19. Thus, insofar as the membership of Mr. Kartara Ram and Smt. Pritam Kaur is concerned, the said membership now stands allotted to Mr. Shounak Roy, who has been allotted flat no.54 in the same Society.

20. In the opinion of this Court, Mr. H.S. Banga is not the person who is holding up the membership of the claimants on behalf of Mr. Kartara Ram. The Society has, in its wisdom, given the membership of Mr. Kartara Ram to Mr. Shounak Roy S/o Shri Sabyasanchi Roy. The dispute, if any, would be between the claimants of Mr. Kartara Ram and the Society in which Mr. Shounak Roy would deserve to be impleaded.

21. As far as Mr. H.S. Banga is concerned, he being a legible member as per the RCS itself and the DDA having allotted flat no.10 in his name, the said allotment cannot be held up due to the challenges raised by the claimants of Mr. Kartara Ram. Claimants of Mr. Kartara Ram would have to pursue their case against the Society and the newly inducted member on their own standing and by not opposing Mr. H.S. Banga.

22. Mr. H.S. Banga, being an original member of the Society, had succeeded before the Financial Commissioner, Delhi. The RCS has also approved the membership of Mr. Banga. Moreover, the DDA has also directed the allotment of flat no.10 in the Society to Mr. Banga. Thus, there is no impediment in the Society handing over the possession of flat no.10 to Mr. H.S. Banga.

23. The Court is informed by the Society that the flat no.10 is still lying vacant. Accordingly, let the possession of flat no.10 shall be handed over to Mr. H.S. Banga within a period of four weeks, subject to payment of any dues.

24. At this stage, Id. Counsel for Mr. H.S. Banga submits that the dues which are payable to the Society have been deposited with this Court as



directed *vide* order dated 3rd November, 2006 in ***W.P.(C) 3132/2001*** titled '***Tejvir Singh v. Registrar of Coop. Societies, Delhi & Ors.***'

25. List this matter *i.e.* ***W.P.(C) 9772/2018*** before the Joint Registrar on 10th July, 2025, who would look into the dues, which have been deposited by Mr. H.S. Banga and release the same in favour of the Society. The keys of the flat no. 10 shall be brought to the Court on the date fixed before the Joint Registrar. Let the amount deposited along with the interest accrued thereon (minus TDS on interest component) be released to the Society and the keys of the said flat be handed over to Mr. H.S. Banga.

26. In the above terms, ***W.P.(C) 9772/2018*** is disposed of. List on 10th July 2025, before the Joint Registrar.

27. Insofar as the second writ petition being ***W.P.(C) 14673/2021*** is concerned, in view of the above narration, let Mr. Shounak Roy S/o Shri Sabyasanchi Roy R/o Flat No.54, Nav Jagriti CGHS Ltd. Plot No.C-11, Vasundhara Enclave, Delhi-110096 be impleaded in the matter.

28. Let notice be issued to Mr. Shounak Roy. Service be effected *dasti* by the claimants on behalf of Mr. Kartara Ram.

29. In order to ensure that no further confusion is caused in this matter, on behalf of Mr. Kartara Ram, it is directed that Mr. Uttam Chand shall be treated by the Society as the claimant for all future purposes. The share certificate, which is lying in the name of Smt. Urmila @ Suman, shall now be issued in favour of Mr. Uttam Chand. In the said terms, ***CM APPL.5118/2025*** shall now stand disposed of.

30. At this stage, Mr. Pranav Sachdeva, Id. Counsel appearing for the claimants on behalf of Mr. Kartara Ram submits that as per the counter affidavit filed by the Society, there is one Mr. Vijay Singh, who is occupying



flat no.13 in the Society. According to the said counter affidavit, Mr. Vijay Singh had been directed to hand over possession of flat no. 13 to the Society vide order dated 25th August 2017 passed by this Court in **W.P. (C) 10916/2016**. Assailing the said order, Mr. Vijay Singh filed **SLP No. 35330/2017** before the Supreme Court, however, the same has been dismissed vide order dated 1st February 2019. As per the counter affidavit, the possession of the said flat has not been handed over to the Society. The relevant extracts on the said counter affidavit filed by the Society are as under :

*“The Grounds taken by the petitioner are not available to her. It is incorrect and denied that the society is unwilling to comply with the orders of this Hon'ble Court. However the society is handicapped because of the fact that there is only one vacant HIG flat available with the society for which both the petitioner as well as the R-3 have staked a claim and are both before this Hon'ble Court. The only other flat no.13 is still under the possession of one Sh.Vijay Singh though he had been directed to hand over possession to the society vide orders dated 25-08-2017 passed by this Hon'ble Court in WP(C) no.10916/2016. The SLP No. 35330 OF 2017 filed by the said Sh.Vijay Singh was also dismissed by the Hon'ble Supreme Court vide orders dated 01-02-2019. Despite this, the possession of the flat was not handed over forcing the society to file a Contempt Case no.630/2019 which is pending and is now listed for hearing on 14-09-2022. Under the given circumstances, the society cannot act without a final decision being handed down by the Court. It would be in the fitness of things if the present petition were to be heard along with the Cont. Cas(C) no.630/2019 to enable this Hon'ble Court to arrive at a just and equitable decision. Copies of the orders cited hereinabove are annexed as **Annexure R-1/3(colly).**”*



31. Accordingly, also issue notice to Mr. Vijay Singh. Let both the noticees *i.e.* Mr. Shounak Roy and Mr. Vijay Singh be served *dasti* by Mr. Sachdev, Id. Counsel appearing for the claimants on behalf of Mr. Kartara Ram.
32. Let the amended memo of parties be filed within one week.
33. Let ***W.P.(C) 3132/2001*** be listed along with ***W.P.(C) 9772/2018*** before the Joint Registrar on 10th July, 2025 for release of dues in favour of the Society and for handing over of keys of the flat to Mr. H.S. Banga.
34. List ***W.P. (C) 14673/2021*** before the Joint Registrar on 29th July, 2025.
35. List ***W.P. (C) 14673/2021*** before the Court on 21st August, 2025.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

JULY 1, 2025/dk/ck