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

+ **CONT.CAS(C) 47/2021 & CM APPL. 47771/2023**

D S KUNDU

.....Petitioner

Through: In person.

versus

DEVINDER SINGH NIJJAR AND ANR

.....Respondents

Through: Mr. Anubhav Gupta, Panel Counsel,
(Civil), GNCTD.

Mr. Mukesh Chand, SO, on behalf of
RCS.

Mr. Vivek Kumar Tandon and Mr.
Shyam Sundar Dalal, Advocates for
Society.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

19.03.2026

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1. This hearing has been done through hybrid mode.
2. The present petition under Section 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India seeks the following prayers:

“It is, respectfully prayed that this petition may kindly be accepted and respondent may kindly be summoned, contempt proceedings under contempt of courts Act, 1971 read with article 215 of The constitution of India be initiated for wilful, intentional disobedience / violation of order of this Hon’ble court passed on 18-11-2019 (ANNEXURE P-4) and be punished for contempt of court under section 12 of the contempt of Courts Act, 1971 read with article 215 of The constitution of India. AND

Any other appropriate order or direction which this Hon’ble court may deem fit and proper in the facts and circumstances of the



present case”

3. *Vide* order dated 18.11.2019, learned Division Bench of this Court in W.P.(C) 12001/2019, passed the following order:

“CM APPL. 49107/2019 (exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 12001/2019

2. A direction is issued to the Registrar, Co-operative Societies to decide each of the applications mentioned in prayer (c) of the petition, after affording the Petitioner an opportunity of hearing, not later than 31st December 2019 and communicate the decision to the Petitioner not later than 15th January 2020.

3. If the Petitioner is aggrieved by such decision it will be open to him to seek appropriate remedy in accordance with law. The petition is disposed of in the above terms.”

4. Compliance affidavit dated 19.03.2021 has been placed on record wherein, it is stated as under:

“5. That the prayers sought in WP(C) 12001/2019, titled as D.S. Kundu Vs. Registrar, Cooperative Societies, was as under:

“(c). Issue a writ of mandamus or any appropriate writ, order or directions directing the Respondents to decide and dispose of the applications/representation dated 22.11.2016 (Annexure P-1), dated 20.12.2016 (Annexure P-2), dated 10.09.2019 (Annexure P-3), dated 09.01.2019 (Annexure P-4), 09.08.2019 (Annexure P-5), dated 15.11.2018 (Annexure P-6 Colly) and dated 10.11.2016 and dated 20.09.2019 (Annexure P-7 Colly) in time bound manner in the interest of justice.”

6. That in the above WP(C), petitioner had mentioned his eight (08) applications dated-22/11/2016, 20/12/2016, 10/09/2019, 09/01/2019, 09/08/2019, 15/11/2018, 10/11/2016 and 20/09/2019.

9. It is further submitted that the different applications of the petitioner as mentioned above in the WP(C) 12001/2019, were disposed of in following manner.

(a) Firstly, vide application dated-15.11.2018 the petitioner herein had sought implementation of the orders of the Arbitrator vide Award No-107/GH/DR/ARB/2014-



15/111 dated 09.02.2016 in which Arbitrator had passed the following award. **(ANNEXURE R-2)**

"Considering the record on case file, arguments of parties & legal position under DCS Act & DCS Rules, claim of the claimant is accepted. Claimant should be provided on specific earmarked space for car parking attached with his flat/dwelling unit apart claimant also has undivided common interest & unrestricted right of use of common area including area under stilt of the building complex & respondent has no authority or power to allot or sell any part of common area under stilt in violation of provisions of the DCS Act & rules there under. Respondent also has responsibility & duty bound under the Act to remove encroachment & ensure free unrestricted use of common area including area under stilt of building, always"

(b) For execution of above award, the petitioner had filed execution proceeding before the Court of Assistant Registrar Section-6 and Recovery officer who vide order dated-22.11.2016 passed has the following order.**(ANNEXURE R-3)**

"I direct the judgement Debtor to implement the award dated-09.02.2016 in letter & spirit & Decree holder shall be provided one specific dedicated & earmarked space for car parking apart from D. H. shall also be allowed unrestricted use of entire common area including area under stilt of the building complex & JD has no authority or power to allot or sell any part of common area under stilt of the building. Further, J. D. owes statutory responsibility & duty under DCS Act & Rule to remove encroachment in common area of the building complex including area under stilt of building"

(c) The above said order of Executing Court was duly forwarded to Administrator Philips CGHS Ltd. For implementation vide letter No. F.47/AR/1024/GH/Sec-6/815-dated-15/12/2017 **(ANNEXURE- R-4)**

(d) Since the present contempt petition CCP No-47/2021 in WP (C) No-12001/2019 has been filed by the petitioner alleging non compliance of directions of this court vide order dated-18/11/2019 in WP (C) No-12001/2019, the answering respondent is filing details of compliance of the directions of this Hon'ble Court on application dated-



15.11.2018 of the petitioner on the issue of implementation of award of arbitrator and order of Executing Court on the issue of providing dedicated parking space and others aspects of the order as detailed below.

- (i) An order dated 04/02/2020 has been passed by the predecessor of the answering respondent disposing of the application/representation dated 15/11/2018 by the Respondent with directions to the Administrator of the Society to ensure immediate compliance of the orders of the Recovery Officer by 14th February, 2020 and appear before the Court of Assistant Registrar/Recovery Officer on 17.02.2021 with compliance report. Copy of the order dated 04/02/2020 is herewith annexed as **Annexure R-5**. Thereafter, the Administrator has filed the compliance report dated 08.09.2020, whereby, the reports indicates that the execution of the award dated 09.02.2016 have been carried out in letter and spirit. Copy of the report dated herewith as 08.09.2020 is annexed Annexure R-6. Meanwhile, the Petitioner filed objections to the compliance report. Copy of the objections to the compliance report is annexed herewith as **Annexure R-7**.
- (ii). Thereafter, another interim compliance report was filed by the Administrator on 19/10/2020 **Annexure R-8**. Last Administrator has also filed status cum compliance report **Annexure R-9** and minutes of the meeting thereby allotting a specific parking to the Petitioner **Annexure R-10**. Petitioner has again filed objections to the status cum compliance report **Annexure R-11**. Meanwhile Sh. Sumer Singh (Administrator-Cum-Ro) has resigned vide letter dated-15.03.2021 Annexure R- 12.
- (iii) It is submitted that the petitioner was again heard by the answering Respondent on the issues involved which are subject matter of contempt petition to take further necessary required action.
- (iv) New Administrator-Cum-RO has been appointed in the society w.e.f 16.03.2021 **Annexure-13**. Further a letter dated- 16.03.2021 has also been sent to the SHO Dwarka to provide police assistance to the Administrator-Cum-RO to ensure the implementation of directions/orders from various Court/RCS office **Annexure-14**.



(v) It is submitted that answering Respondent has taken all necessary step and issued directions to the Administrator/police authorities for implementation of the award dated- 09.02.2016 issued by the Arbitrator on the issue of earmarked parking and there has been a complete compliance of direction of this Hon'ble Court vide order dated- 18.11.2019 in WP(C) No-12001/2019 on inter alia, petitioner's application dated-15.12.2018 on the above issue. In view of the above, contempt petition is not maintainable and it is prayed that the same may be discharged as being devoid of merits.

10. Since in the prayer clause of CCP No-47/2021 in VVP (C)No-12001/2019 the petitioner is alleging no compliance of order dated- 18.02.2019 of this Hon'ble Court, answering Respondent is also submitting following facts showing compliance of directions of this Hon'ble Court on petitioner other seven 07 application detailed in Para-6 above as per following details.

S.No.	Application date	Issue involve in application	Decision taken on applications
1.	Application dated 10/11/2016 and 20/09/2019	Said applications deals with common issue regarding the financial irregularities in the functioning of the society.	An order dated 04/02/2020 was passed by the predecessor of the answering Respondent with directions to the Additional Registrar Cooperative Society) to conduct hearing in the matter while affording opportunity to the members/ex-persons of the MC/persons against whom allegation have been made by the petitioner and accordingly to submit a report. Copy of the n order dated 04.02.2020 is annexed herewith as Annexure R-15 . Meanwhile, after passing the above order dated 04.02.2020, the parties have been heard by Addl. Registrar (Cooperative Societies) in accordance with the directions and eventually statutory inspection section 61



			(1) DCS Act 2003 has been ordered and order dated-02.03.2021 has been passed by the answering respondent for the appointment of Sh. Naveen Jindal, DANICS/ADM (North) as inspection officer. Copy of the appointment order and relevant documents have been sent to the Inspection Officer. Copy of the order dated 02.03.2021 is annexed herewith as Annexure R-16 .
2.	Application dated 09/01/2019 and 09/08/2019	Said applications are regarding the inquiry into the corrupt practice, misuse of office and position by Mr. V.K Aggarwal, Panel of Arbitrator of RCS office and to further black list him from panel of RCS office	An order dated 18.02.2020 has been passed by predecessor of answering respondent disposing of the representations with the observation that Shri V.K Aggarwal has been de-empanelled from the panel of Arbitrators. However, in view of the other allegations, Joint Registrar (Cooperative Society) has been directed investigate the matter further and submit the inquiry report. Currently the matter is under process with the Additional Registrar (Cooperative Society) Copy of the order dated 18.02.2020 is annexed herewith as Annexure R-17 .



3.	Applications dated 22/11/2016, 20/12/2016 and 10/09/2016	Said complaints are against Sh. Naveen Katariya (Dy. Registrar) for misuse of office of Registrar and Sh. Shayam Sunder Dalai (Advocate)	The order dated 03.12.2020 has been passed disposing of the representations with the directions for carrying out a fact finding inquiry. And in, so far as handling; over/taking over of the records of the society, Assistant Registrar (Cooperative Society) was directed to process the matter. Immediately for taking further action under section 38 of DCS Act, 2003. Copy of the order dated 03.12.2020 is annexed herewith as Annexure R-18 . Matter has been assigned to JRCS for conducting fact finding enquiry.
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11. That it is submitted the Respondents have duly complied with the directions of this Hon'ble Court and accordingly, disposed of all the representations and if, Petitioner is still aggrieved with the order of the Respondents, the Petitioner has every opportunity to seek appropriate remedy in accordance with law, in terms of the order dated 18.11.2019.

12. That the above mentioned 04 orders were passed by my predecessor Respondent No-2 in compliance of Order dated 18.11.2019, before filing of the instant Contempt petition, orders passed by my predecessor in terms of the directions passed by this Hon'ble Court which required due consultation with record of the society and office of RCS and also affording opportunity to the petitioner. Petitioner was heard on 30.12.2019 and the matter was kept for orders by my predecessor. Moreover, considering the issues involved in the representations, which required thorough examination and perusal of documents/records of the society and also consultation with records and Administrator of the society, representations were disposed of at different times.

13. It is submitted that the compliance of the direction of this Hon'ble Court took some time beyond the time given in the order dated-18.11.2019 of this Hon'ble Court which was due to administrative exigencies and also situation arising out of COVID-



19 Pandemic and beyond the control of the office of the Respondents and there was no deliberate or intentionally delay in the matter of compliance of the orders of this Hon'ble Court.”

5. The petitioner, who appears in-person, submits that order dated 22.11.2016 was a part of the directions passed by the learned Division Bench *vide* order dated 18.11.2019, which can only be disposed of by implementation. The aforesaid order dated 18.11.2019, was clear to the extent that the applications referred to in prayer “c” of the writ petition should be decided. As noted hereinabove, in the Compliance affidavit dated 19.03.2021, the details of the said applications have been given and their respective orders have also been placed on record. The prayer in the present petition as quoted hereinbefore, is with respect to the non-compliance of aforesaid order dated 18.11.2019 of the learned Division Bench.

6. In view of the aforesaid Compliance affidavit, this Court is of the opinion that the directions passed by the learned Division Bench *vide* order dated 18.11.2019 has been complied with. It is further noted that in the said order, the liberty had been given to the petitioner that, in case, he is aggrieved by the decision of the Registrar, Co-operative Societies, it will be open to him to seek appropriate remedies in accordance with law.

7. In view of the above, no further directions are called for.

8. The present petition is disposed of with liberty to the petitioner as given by the learned Division Bench *vide* order dated 18.11.2019.

9. Pending application(s), if any, also stands disposed of.

AMIT SHARMA, J

MARCH 19, 2026/bsr/sg