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

Date of decision: 13th March, 2026

Uploaded on: 17th March, 2026

+ **W.P.(C) 15701/2023 & CM APPL. 62968/2023**

G S PRASHAD

.....Petitioner

Through: Mr. Kunal Kalra and Mr. Ujjwal
Barnwal, Advs.

versus

PANCHDEEP COOP G H SOCIETY LTD & ORS.....Respondents

Through: Mr. Sandeep Kumar, Adv.
Ms. Urvi Mohan & Mr. Sameer
Vashishtha, Advs. (M: 9873880830)
Ms Avni Singh Panel Counsel for
GNCTD with Mr. Harish , from office
of RCS.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. This is a petition challenging the impugned order dated 18th September, 2023 passed by the Delhi Co-operative Tribunal (hereinafter “DCT”) by which the appeal filed by the Appellant before the DCT has been dismissed on the ground of being barred by limitation.
3. The brief background is that the Petitioner is a member of the Society *i.e.*, Panchdeep Cooperative Group Housing Society Ltd. (hereinafter “Society”), and is in possession of Flat No. 98 therein. It is stated that the Society had raised some dues against various members, including the



Petitioner, in respect of loans obtained from Respondent No. 4 - Delhi Co-operative Housing Finance Corporation Ltd. In this regard, the Society had initiated arbitration proceedings under Section 61 of the Delhi Co-operative Societies Act, 1972 and a Sole Arbitrator was appointed.

4. The proceeding sheets have been placed on record and the same are extracted hereunder for ease of reference:

“1.04.2004

Summons are issued to all the parties concerned to appear before the undersigned on 24.04.04 at 3 p.m. through registered post. The postal receipts are placed on record.

24.04.04.

Present Sh. R.K. Mudgil, on behalf of the claimant. None present on behalf of the defendant No.1 also present Sh. Amit Sharma on behalf of the defendant No. 2. In the interest of justice, fresh summons are issued to defendant No.1 to appear before the undersigned on 8.05.04 at 3 p.m.

On 26/04/04 Sh. G.P. Prasad appeared and requested the date. The case as already adjourned for 8.5.04 at 3 p.m., therefore the date is given to the defendant is 8.5.04 at 3 p.m.

8.05.04.

Present Sh. R. K. Mudgil, Secretary of the claimant society, also present Sh. G.S. Prasad the defendant. The copy of the claim petition is given to the defendant for his written reply. The case is adjourned for 15.05.04 at 3 p.m.

15.5.04

Present Sh. R. K. Mudgil, the Secretary of the society, also present Sh. G.S. Prasad, the defendant



himself. The defendant filed written reply, the copy of which is given to the claimant for its rejoinder reply. The case is adjourned for 22.05.04 at 10:30 a.m.

22.05.04

Present Sh. G.S. Prasad the defendant himself. None appeared on behalf of the claimant except one representation placed on record. The case is adjourned for 28.05.04 at 10 am.

“28.05.04.

Present Sh. Mudgil, the Society of the claimant society, also present Sh. G.S. Prasad the Defendant himself. The claimant submitted the rejoinder reply. Heard the arguments of both the parties. The case is reserved for orders.

3.06.2004

Award u/S 61

The award has been passed accordingly. One copy of the award is placed on record. Each copy of the award has been sent to all the parties concerned. The postal receipts are placed on record.”

5. As can be seen from the above proceeding sheets, the Petitioner regularly appeared before the Arbitrator and the written statement was also filed by the Petitioner. This is recorded in the order dated 15th May, 2004. Thereafter, on 22nd May, 2004, none appeared for the Society and accordingly, the matter was then adjourned to 28th May, 2004. However, on 28th May, 2004, although it is recorded that the Petitioner and the secretary of the Society were present and arguments were heard, the proceedings as recorded have been severely disputed by the Petitioner.

6. The version of the Petitioner is that in fact the Society did not appear



on the said date. The Petitioner was also present till 11:00 a.m. and during the said period the Petitioner was informed that the Id. Arbitrator would not be conducting proceedings on the said date. Accordingly, it is submitted that no arguments were heard on 28th May, 2004. However, the proceeding sheet recorded to the contrary and the award was allegedly passed on 3rd June, 2004.

7. In support of the above submission, Id. Counsel for the Petitioner has drawn the attention of the Court to the proceeding sheets which have been duly countersigned by the Petitioner on each date when he was present. However, the signature of the Petitioner is conspicuously absent from the proceedings as recorded on 28th May, 2004.

8. The Petitioner is further aggrieved by the fact that he had neither been communicated about passing of the award dated 3rd June, 2004, nor had he received a copy of the same. It is submitted by the Id. Counsel for the Petitioner that, all along, the Petitioner had informed the Id. Arbitrator that though he is owing a flat in the Society, he was actually residing in 40-B, Single Storey, Ramesh Nagar, New Delhi -110015 or B-106, Double Storey, Ramesh Nagar, New Delhi-110015 and correspondence was to be sent to this address. Despite this being the position, the award is allegedly communicated by UPC at the address of the Society *i.e.*, 98 - Panchdeep Apartment, Vikaspuri, New Delhi-110018.

9. Thus, the case of the Petitioner is that the award was never received by the Petitioner. In fact, the Petitioner wrote two letters to the Id. Arbitrator, one on 3rd June, 2004 and then on 12th October, 2004, however, no reply was received.

10. As per the award dated 3rd June, 2004, the Arbitrator has directed payment of a sum of Rs. 1,35,926/- along with interest in the following terms:



That the defendant no.1 is directed to deposit/pay the following dues/amount to the claimant society.

- 1 DCHFC QLY EMI installments
(After adjusting Rs. 205216.00 as paid
by the defendant no.1 and after adjusting
the dividend receivable by the claimant from
DCHFC against the share of defendant no.1)
including GIP, PIP, Interest/Penal Interest upto
quarter ending 31.3.2004. Rs. 24900.00
2. (a) Common cost of flats upto 31.3.04 Rs. 24763.00
(b) (intt./p.intt.) upto 31.3.04 Rs. 45631.00
Total Rs. 70394.00 Rs. 70394.00
3. (a) Monthly service charges upto 31.3.04 Rs. 10499.00
(b) (intt./p.intt.) upto 31.3.04 Rs. 11623.00
Total Rs. 22122.00 Rs. 22122.00
4. (a) Admn. Exp. charges upto 31.3.04 Rs. 8190.00
(b) (intt./p.intt.) upto 31.3.04 Rs. 10320.00
Total Rs. 18510.00 Rs. 18510.00
- Total (1 to 4) Rs. 135926.00
(Rupees One Lac Thirty Five Thousands Nine Hundred Twenty six only.)

As regards the undue Principal Loan (Outstanding) amount of DCHFC, the Rs. 40470.00 defendant No.1 is directed to deposit the same in time as and when the same becomes due starting from June Quarter ending 2004 onwards till the total principal loan amount of DCHFC is liquidated.

The claimant society is also entitled to charge the intt. @ 13% PA + 2½% ~~the~~ terms of the agreement between claimant society & DCHFC) on DCHFC Loan Amount and to charge the intt. @ 18% PA + 3% (As per the normal norms of the society) on all other dues other than DCHFC with effect from 1.4.04 till its realization.

In addition in view of the provisions of Rule 89 (5) the claimant society is also allowed a sum of Rs. 5000.00 plus 7.5% of the above said awarded as arbitration expenses.



11. This award was sought to be executed by the Society over several years and it is the case of the Petitioner that he came to know of the award only on 19th January, 2015. He stated to have obtained a copy from the RCS office on 20th January, 2015 and then filed the appeal before the DCT.

12. In the DCT order, the delay of 11 years has been held against the Petitioner and the appeal has been dismissed.

13. The Court has heard Id. Counsel for the Petitioner and the Society. Clearly, the first and the foremost lapse appears to be that of the Id. Arbitrator who appears to not have accurately recorded the proceedings on 28th May, 2004. It is the case of the Petitioner, that no submissions or arguments were made on his behalf. Thus, the Award has been passed without hearing the Petitioner. The Award was passed *ex-parte*. It was also clearly not communicated to the Petitioner as the UPC receipt does not have the proper address for service of the correspondence which was duly intimated by the Petitioner to the Ld. Arbitrator.

14. In any event on 3rd June, 2004 a letter has been written by the Petitioner to the Arbitrator and again on 12th October, 2004 another letter has been written seeking information relating to the Arbitral proceedings. However, no reply was received by the Petitioner. There is no proof placed on record by the RCS as to the manner in which the award was communicated and the original UPC receipt is not available in the RCS records as per Ms. Avni Singh, Id. Counsel for the RCS.

15. On behalf of the Society, Mr. Sandeep Kumar, Id. Counsel submits that the delay of 11 years in filing the appeal is too long. There is some justification in this submission inasmuch as since the Petitioner knew of the arbitral proceedings he had a duty to follow up and obtain the copy of the award which



he did not do. This lapse is on the part of the Petitioner.

16. Thus, in the overall facts and circumstances there have been lapses from both sides as also by the Arbitrator. However, the Court is of the view that the appeal of the Petitioner before the DCT ought to be permitted to be heard on merits, especially because the Award is an ex-parte award, wherein submissions were not heard by the Ld. Arbitrator. The above relief of the appeal being restored for adjudication on merits is given on the condition that a sum of Rs. 1,00,000/- shall be deposited by the Petitioner with the office of the RCS by 20th March, 2026. The said deposit of Rs. 1,00,000/- shall be without prejudice to the rights and contentions of the Petitioner.

17. The impugned order is accordingly set aside. The appeal of the Petitioner before the DCT is restored to its original position. The DCT shall adjudicate the matter on merits after hearing both sides within a period of four months from today.

18. The parties shall appear before the DCT on 2nd April, 2026.

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

PRATHIBA M. SINGH
JUDGE

MADHU JAIN
JUDGE

MARCH 13, 2026

dj/msh