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

+ C.R.P. 221/2025 & CM APPL. 45878/2025

C.A. CO-OPERATIVE T AND C SOCIETY .....Petitioner

Through: Mr Jivesh Kumar Tiwari with Ms  
Samiksha, Advocates.

versus

PRAVEEN GUPTA & ORS

.....Respondents

Through:

**CORAM:**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**ORDER**

% **23.01.2026**

1. This petition has been filed assailing order dated 4<sup>th</sup> April 2025 passed by *SCJ-cum-RC, East District, Karkardooma District*.
2. By the impugned order, application filed by the petitioner /defendant under *Order VII Rule 11* of Code of Civil Procedure, 1908 ('*CPC*') was rejected.
3. On 07<sup>th</sup> August 2025, this Court issued directions for supply of complete set of paper book to counsel for respondents who had appeared before the Trial Court.
4. Counsel for petitioner states that they filed an affidavit stating that they have supplied a copy of paper book to *Mr. Mayank Goyal*, counsel who has appeared on behalf of respondents/plaintiff before the Trial Court.
5. Further, they had taken steps to inform *Mr. Sayam Jain*, counsel who



had been appearing for respondents/plaintiff before the Trial Court. However, no one appears for respondents today and no appearance has been recorded on subsequent dates of 17<sup>th</sup> September 2025, 25<sup>th</sup> September 2025 and 11<sup>th</sup> November 2025.

6. The issue raised in the petition is in a narrow compass. A suit had been filed by respondents/plaintiff seeking a decree of redemption of mortgage and permanent injunction against petitioner/defendant (*Cooperative Society*).

7. It was claimed by respondent/plaintiff that they had taken a loan of Rs. 40,00,000/- from petitioner/ defendant and in respect of that sought a redemption of mortgage.

8. Application under *Order VII Rule 11* of CPC was filed, stating that the dispute between a member and society would lie under *Section 70 of Delhi Cooperative Societies Act, 2003* (***DCS Act***) which provides for a complete set of remedies available to a member of the society.

9. However, the impugned order relying upon ***Booz Allen and Hamilton Inc. Vs. SBI Home Finance***, 2011 5 SCC 532 arrived at an opinion that this was an issue *in rem* and therefore, could not be dealt with under the DCS Act or for that matter by an Arbitral Tribunal.

10. Counsel for petitioner/defendant, *Mr. J. Kumar Tiwari*, has placed the following submissions:

10.1 *Firstly*, Section 70 of DCS Act is a special standalone procedure available to a member of the Society, under a special statute, to raise disputes against the society relating to its constitution, management or business. Certain exclusions are there in Section 70, which will not be applicable to this case.



10.2. *Secondly*, he contends that since, Section 70 of DCS Act provides for arbitration and Section 70(5) provides that provisions of Arbitration and Conciliation Act, 1996 (**'A&C Act'**) would apply in any event.

10.3. *Thirdly*, he relies upon Section 70(2), which provides that, if there is any question on maintainability that a said dispute is not within the purview of Section 70(1) of DCS Act, the Registrar is competent to take a decision in that regard.

11. In short, what is being contended here is that, if there is an issue relating to arbitrability of the dispute or maintainability of the dispute, the provisions of Section 70 of DCS Act, which is a complete code, will provide remedy for the party aggrieved.

12. Further, reference may also be made to section 132 (1)(c) of DCS Act which bars the jurisdiction of Civil Courts for any dispute, which is required to be referred to the Registrar under Section 70 of DCS Act. The said provision is extracted as under:

*"132. Bar of jurisdiction of civil or revenue courts  
(1) Save as provided in this Act, no civil or revenue court shall have any jurisdiction in respect of –  
...  
(c) any dispute required under section 70 to be referred to the Registrar; and"*

13. In addition, there is a non-obstante clause provided in DCS Act in Section 140 which also reads as under:

*"140. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law."*

14. In this respect, *Mr. Tiwari* also relies upon the decision of Division



Bench of this Court in FAO (COMM) 139 / 2021 titled, '**Deepak Sharma and Anr v SrinivasPuri Mitra Mandal CGHS Limited and Anr** 2021:DHC:2902-DB which emphasizes that an alternative dispute resolution mechanism is provided under DCS Act, which has ousted the jurisdiction of Civil Courts.

15. Any aggrieved member would have to, therefore, seek their remedies under the DCS Act and not file a petition under the A&C Act.

16. In this view of the matter, there can be no issue if a petition, under Section 70 of DCS Act, is preferred by respondents/plaintiff and, therefore, the assertion by petitioner/defendant in their application under Order VII Rule 11 of CPC, to that effect, ought to have been accepted.

17. In this view of the matter, impugned order is set aside. Respondents/plaintiffs are at liberty to raise their issues/pleas in accordance with law, and as available under the DCS Act. If there is any issue related to maintainability, the matter can be decided by the Registrar under Section 70 of DCS Act.

18. This Court has not expressed its view on the merits of the issue raised in the suit or its maintainability.

19. Needless to say, there are appellate provisions also provided to the parties in dispute under the DCS Act, in particular Section 112 and 116 for Appeal and Revision, respectively.

20. Petition is accordingly, disposed of. Pending applications, if any, are also rendered infructuous.

21. Order be uploaded on the website of this Court.

**ANISH DAYAL, J**

**JANUARY 23, 2026/RK/sp**