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

+ **CONT.CAS(C) 791/2024**

BHARAT BHUSHAN ALLAHABADI

..... Petitioner

Through: Mr. Himanshu Tyagi, Adv. with Mr.
Ayush Negi, Adv. (Through VC)

versus

GOVERNMENT OF NCT OF DELHI

..... Respondent

Through: Mr. Shashi Pratap Singh, Adv. with
Mr. Dhananjay, Assistant RCS
M: 9560536975

Email: shashipratapadv@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

14.05.2024

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1. The present petition has been filed alleging willful disobedience of the order dated 25th September, 2023 passed by the Division Bench of this Court in W.P.(C) No. 12593/2023, wherein it had been directed as follows:

“1. The challenge in this writ petition is to an order dated July 18, 2023, passed by the Registrar of Co-operative Societies (‘RCS’, in short) on an application made by the petitioner under Section 118(7) of the DCS Act, 2003. The learned counsel for the petitioner submits that the application was under Section 118 read with Section 121 of the DCS Act, 2003. Be that as it may, the RCS has in paragraph 10 concluded as under:

“10. In view of the submissions by the parties and after perusal of the case file, I am of the view that Sh. Govind Ram, executed GPA, SPA and deed of will in favour of Smt. Kanta Devi, W/o Lt. Sh. O.P. Gupta on 04.05.1998 before actual allotment of flat. However, as per submissions by the petitioner it is noted that the actual allotment of flat was made to Sh. Govind Ram on 22.5.2001 and thereafter the possession of the flat was given to him on 16.2.2002. Section 77 of DCS Act, 2003 deals Allotment of plots of land, flats, houses or other dwelling units made by the Maintaining Committee of the society to the members by draw of lots and



such draw shall be conducted by the lessor of the land in accordance with the terms and conditions of lease and in this case allotment of flat has been made to the original member as per the provision of section 77. Hence, there is no violation of section 77 of DCS Act, 2003. Therefore, no prosecution sanction can be granted against Sh. Sunil Aggarwal, Sh. Amit Garg, and Sh. Tarun Lekhi u/s 118(7) of DCS Act, 2003 r/w section 121 of DCS Act, 2003. However, the ARCS (Housing Section-2) is directed to administratively verify the facts of the petition related to transfer of membership and various GPAs, SPAs executed before actual allotment of flat by the member and thereafter put up for appropriate action as per DCS Act, 2003 and Rules, 2007, if any.”

2. The submission of the learned counsel for the petitioner is that despite a finding in favour of the petitioner, the RCS has not sanctioned prosecution of the respondent No.2. He state that a complaint made in the year 2017 having been decided only on July 18, 2023, there is an apprehension that follow up administrative action as directed by the RCS in paragraph 10 may not be carried out expeditiously.

3. The apprehension expressed by the counsel for the petitioner is answered by the learned counsel for the RCS by stating, the exercise as directed by the RCS shall be carried out within a period of six months as an outer limit. We by taking the submission of the learned counsel for the RCS on record, close the writ petition.”

2. Issue notice. Notice is accepted by learned counsel appearing for the respondent.
3. Learned counsel appearing for the respondent submits that instructions have to be sought from the Registrar of Cooperative Societies (“RCS”), as the directions had been issued to the said authority. He further submits that he may be granted some time to seek instructions.
4. At request, re-notify on 29th May, 2024, in the ‘Supplementary List’.

MINI PUSHKARNA, J

MAY 14, 2024/kr