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

+ **W.P.(C) 12639/2025 & CM APPL. 51502/2025**

SWADESH KUMAR

.....Petitioner

Through: Mr. Debesh Panda, Mr. Pratyush
Miglani, Mr. Tushar Upadhyay, Mr.
A Shankar & Mr. Punit Bhansali,
Advs.

versus

REGISTRAR DELHI COOPERATIVE SOCIETIES & ORS.

.....Respondents

Through: Mr. Sameer Vashisht, SC (Civil)
GNCTD for R-1/RCS with Ms.
Harshita Nathrani, Adv.
Mr. Yogesh Saini, Adv. for R-2&3
(thru VC) Mr. R B Shukla,
Administrator of Society.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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21.08.2025

CM APPL. 51503/2025

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 12639/2025

1. Heard.
2. The decision impugned in the present petition is dated 15th September 2023, whereby petitioner was informed by respondent no. 2, the Administrator of respondent no.3/Society, to make a representation, if so desired, against the decision of Inspecting Officer ('IO') nullifying his membership, along with supporting documents by 30th September 2023.
3. The facts necessary for deciding the issue are that *Sh. Hukum Chand*



bequeathed the property in question *vide* a Will dated 2nd February 1977 in favour of nephew, *Sh. Dina Nath Bhatia*, who in turn, *vide* an Agreement to Sell and Will dated 21st February 1997, bequeathed/transferred the property in favour of petitioner. It appears that petitioner was accepted as member of respondent no.3/Society.

4. An inspection was ordered pursuant to the provisions of *Section 61* of the *Delhi Cooperative Societies Act, 2003* ('**DCS**') and the IO having noted that petitioner was neither a blood relation nor legal successor of the original allottee, held that he was not entitled to be enrolled as a member and as such nullified his membership.

5. The decision of the IO and Administrator of respondent no.3/Society is assailed on the ground that the same is contrary to the Scheme of DCS Act, particularly the mandate under *Section 61* and more specifically, the *proviso* thereto. It is contended that neither notice was issued nor an opportunity of being heard was afforded.

6. It is further urged that membership of petitioner dated back to February 1977 and, in such an eventuality, the same is governed by *Delhi Cooperative Societies Act, 1972* (**Act of 1972**). According to counsel for petitioner, the issue stands squarely covered by two judgments of ***Rajdhani Co-operative Group Housing Society Ltd. v. The Presiding Officer, Delhi Cooperative Tribunal & Ors.*** (2010) 118 DRJ 711 and ***Panchshila Co-operative House Building Society Ltd. v. Govt. of NCT of Delhi.***, (2009) 163 DLT 205 (DB).

7. *Mr. Sameer Vashisht*, learned counsel appearing for the respondent no. 1/ *Registrar of Co-operative Societies (RCS)*, contended that a perusal of the impugned order would show that an opportunity of hearing was



offered, which petitioner failed to avail. He also urged that an alternative remedy under *Section 112 (1) (q)* under DCS act, 2003 is available to petitioner. He further prayed for time to file an affidavit, submitting that the petition has been preferred at a belated stage.

8. *Mr. Yogesh Saini*, learned counsel appears for respondent on.2/Administrator.

9. We have considered submissions canvassed by counsel for petitioner. It is apparent that petitioner's membership was in fact accepted as far back as 1977, and it is the IO who has nullified the same. Such nullification appears to have been acted upon by respondent no.2, which has led to the issuance of the impugned order.

10. The fact remains that petitioner's membership is governed by the old Act of 1972, as it is brought to our notice that the same is based on Agreement of Sale and Will dated 21st February 1977, executed by *Sh. Dina Nath Bhatia*.

11. Merely because petitioner is not a blood relation, we *prima facie* see no embargo at the relevant time, to infer that petitioner cannot be enrolled as a member.

12. That being so, the order impugned shall remain stayed.

13. Notice to respondent no. 3, returnable in six weeks.

14. List on 28th October 2025.

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

NITIN WASUDEO SAMBRE, J

ANISH DAYAL, J

AUGUST 21, 2025/sm/zb