

Case No.102/2014

Riviera Apartments owners Coop. Housing Society Ltd. Vs
RCS & Ors.

15.07.2014

Present : Shri Achin Aren, Counsel for the Petitioner
: Shri S.K. Sharma, Counsel for the R-3
(filed Vakalatnama)

1. Heard the Counsel for the petitioner.
2. Brief facts of the case are that the Revision petition has been filed by the "Riviera Apartment Owners Coop. Housing Society Ltd." against the impugned order dated May 19, 2014 vide which a token penalty of Rs.1000/- was imposed for delay in providing information sought by Sh. Sanjay Chiripal (Respondent No. 3 herein).
3. Petitioner counsel submitted that the reasons for delay in providing the information were submitted before the Ld. A.R which were not considered by him. Counsel further submitted that there is no rationale for imposing the penalty as the applicant (herein R-3) has not incurred any loss.
4. Petitioner has submitted that applicant (herein R-3) vide application dated January 29, 2014 sought information regarding cash withdrawn by the society during the period October 25, 2013 to November 05, 2013.
5. Petitioner further submitted that, as per sub rule (8) of rule 165 of the Delhi Co-operative Societies Rule, 2007, respondent no.2 was competent to impose penalty only in case of default to comply with orders passed by respondent no.2 in appeal. Since there was no default, there was no question of imposing the

penalty. Petitioner also submitted that impugned order was passed by respondent No. 2 with malafide intention and in collusion with Respondent No. 3.

6. The averments have been considered by the Court. It has been observed that the petitioner failed to provide any evidence regarding malafide intentions of respondent No. 2 and the suggestion that the order was passed by him in collusion with the respondent No. 3. Therefore, this ground of the petitioner is not tenable.
7. Further that petitioner has failed to indicate any provision in the act which requires the applicant to suffer losses to justify imposing of a penalty for delay in providing information under section 139 of DCS Act, 2003. Therefore, this averment of the petitioner is not accepted.
8. Petitioner submitted that society office bearers were busy in reconciliation of society accounts with PNB Bank due to which society could provide the information only after 43 days of receiving the application. This Court observes that the applicant (herein R-3) has sought the information of cash withdrawal by the society during the period from October 25, 2013 to November 05, 2013 vide application dated January 29, 2014. This implies information was required regarding withdrawal of cash by the society related to a period of about two weeks only. This court does not find any reason to accept that providing this information required 125 days before it could be made available. Moreover, society failed to produce any evidence that this information was provided by the bank, that too only in the second week of March 2014.

9. On the submission of the petition that as per Rule 165 sub rule(8), since there is no default, there should not be any penalty, this Court observes that Section 139 of Delhi Cooperative Societies Act, 2003 clearly envisages the time limit for providing the information and penalty for any delay.
10. Considering all the facts and circumstances the petition is dismissed.
11. File be consigned to record room after completion.

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(D. M. Spolia)
Financial Commissioner
Delhi