

IN THE COURT OF THE FINANCIAL COMMISSIONER,
DELHI

Case No.146/2013

**Revision Petition under
section 116 of Delhi
Cooperative Societies Act,
2003**

In the matter of :-

**1. Smt. Seema Bijlani
 R/o 33-A, Upkar Apartments,
 Mayur Vihar, Phase-I Extension,
 Delhi-110091**

**2. Manjeet Kaur
 D-105, Upkar Apartments,
 Mayur Vihar, Phase-I Extension,
 Delhi-110091**

....Petitioner

VERSUS

**1. Delhi Cooperative Housing
 Finance Corporation Ltd.
 Through its General Manager
 3/6, Sirifort Institutional Area,
 August Kranti Marg,
 New Delhi-110049**

**2. Registrar, Cooperative Societies
 Parliament Street
 New Delhi.**

.... Respondents

NAINI JAYASEELAN, FINANCIAL COMMISSIONER

Order dated 21.07.2015

1. This order shall dispose of the Revision Petition filed by the Petitioner under Section 116 of the Delhi Cooperative Societies Act, 2003 against the Recovery Certificate dt. 26.04.2013 issued by the Deputy Registrar of Cooperative Societies against the petitioners jointly and severally.

2. Petitioner in her petition has submitted the following points :

(a) Petitioner appeared before the Registrar, Cooperative Societies in response to the recovery proceedings and filed a

reply on 20.12.2012 wherein the petitioner categorically submitted that due to her matrimonial dispute with the husband, she is undergoing mental stress on one side and passing through serious financial crises. She further reiterated that she intends to repay the balance amount and prayed for rescheduling of the repayment of the loan.

(b) During the course of the proceedings before the Dy. Registrar, Petitioner instructed her counsel to request for a reasonable time for the repayment of amount, but the Deputy Registrar did not entertain the request.

(c) Petitioner drew the attention of the respondents to the balance loan which was not levied in accordance with Article 7 of the Loan agreement and is totally contrary to the law.

(d) Respondent No. 2 failed to consider that the recall of the balance amount from the petitioner is contradictory to the terms of article 7 of the agreement.

(e) Respondent no. 2 failed to consider that the amount called for i.e. Rs.2,30,237/- is wrongly calculated, wherein the additional amount of Rs. 92,939/- has been added two times in the principal amount.

3. Respondent No. 1 has filed the reply to the revision petition and submitted the following :

i. That the petition as filed by the petitioners is not maintainable.

ii. The impugned order/certificate is final and is not subject to any revision by this Court under Section 116 of the Delhi Cooperative Societies Act, 2003.

iii. The terms and conditions of the Loan Agreement as well as the equated monthly instalments were formulated for a period of 10 years as per the convenience of the petitioners at the relevant time and in accordance with their consent, keeping

in view her request and eligibility for repayment of loan. Therefore, it is not possible to restructure the time for payment of the instalments as and when so desired by the petitioners.

iv. As per article 7 of the Loan Agreement, in case of persistent default, the respondent No. 1 has the right to recall the entire loan amount.

v. There is no mistake in calculation made by the respondent. Additional amount of Rs. 92,939/- is the recall of balance principal of loan. It is denied that any of the calculations made by the replying respondents are wrong or are in contravention to the terms of the Agreement.

4. After admission of the case, case was fixed for hearing on 05.12.2013, 04.03.2014, 01.05.2014, 18.09.2014, 29.01.2015 and 03.07.2015 but petitioner or her Counsel never appeared and only either proxy Counsel or Clerk of the Counsel appeared on behalf of the Petitioner on these dates.

5. I have decided to proceed further on the basis of facts and documents available on record. Petitioner failed to adduce any documentary evidence in support of her contention regarding any wrong calculation and any violation of the terms of loan agreement. Therefore, the petition is hereby dismissed.

6. Pronounced in open court on 21.07.2015.

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(NAINI JAYASEELAN)
Financial Commissioner, Delhi