

Case No. 64/2012

Sh. Jaswinder Singh Saini Vs. RCS & Anr.

29.05.2014

Present : Sh. Rajiv Vig, Counsel for the Petitioner.

1. This revision petition has been filed by Sh. Jaswinder Singh Saini seeking to set aside and quashing of status report dated October 31, 2011, inspection report dated January 21, 2010 and order dated August 31, 2009.
2. Brief facts of case are that petitioner was made member of Society in the year 1996. Petitioner paid admission fee, share money, membership fee to the Society and thereafter made various payments toward cost of flats. Society issued share certificate to the petitioner. Thereafter on receiving complaint against the Managing Committee, the RCS appointed an Administrator. The Administrator looked into various actions initiated by the then Managing Committee and prepared a report wherein it was strongly suggested that flat No. 27, 29, 33, 42 & 49 be got evicted as allotment of their flats was done by violating rules and norms. As per report of RCS, there is another flat i.e. flat No.39 which was allotted to Smt. Neetu Gupta without obtaining the approval of RCS and by violating the rules. This flat was also to be got vacated and to be allotted to Smt. Santosh K. Chadha, provided all legal provisions are complied with.
3. Smt. Santosh K. Chadha filed a WP (C) No. 5351/2010 before High Court for issuing directions in her favour for allotment of flat in the Society as she got an award dated May 22, 2001 in her favour according to which a flat was to be allotted to her. Petitioner prayed to the High Court to implead them in the said WP filed by Smt.

Santosh K. Chadha. The High Court disposed of the WP and application with the following directions:

“(i) Since the occupants of flat nos. 27, 29, 33, 42 and 49 had been deprived of their possession in pursuance to our directions on account of their misconceived endeavour to approach the Financial Commissioner, the said parties having suffered deprivation of possession now for four months, the said applicants be put in possession of their respective flats subject to their rights being determined in any proceedings initiated in accordance with law by them and with liberty to the RCS to take action in pursuance to its report. Thus applicants will file an undertaking before this court not to sell, transfer, assign or part with possession of the flats in question and to hand over possession to the Registrar in case they ultimately fail finally in the proceedings initiated by them and are given a window of three weeks to move the competent authority in accordance with the law, within which time the RCS will take not any coercive action. On the said undertaking being filed and verified by the Dy. Registrar (Writ) of this court the keys will be released to the respective parties.

Learned counsel for the applicant states that they will file the undertaking by 25.01.2012 and the writ petition will be listed before the Dy. Registrar (Writ) on 30.01.2012 for compliance and release of keys.

(ii) The keys of flat no. 39, lying deposited in this court, will be released to the respondent no. 2/RCS forthwith. On the petitioner completing necessary formalities qua the allotment of the flat in her favour, possession of flat no. 39 will be given to the petitioner subject to the said petitioner filing an undertaking before this court not to sell, transfer, assign or part with possession of the said flat, till such time as there is final adjudication qua the rights of the applicants in CM No. 12951/2011. The society will indicate the amount to be paid by the petitioner to the society within a week calculated in terms of the award dated 22.05.2001 and on payment of the amount will forward the case of the petitioner to the RCS. We give the same window of three weeks to the said applicant to take recourse to appropriate legal remedy as they may be advised.

It is also open for these purchasers to give up their rights qua the flat and take their remedy against the sellers in view of the disentitlement of the seller to the flat in question as concluded by the RCS. This option will be exercised by the applicants within the same period of three weeks and in case they chose to only proceed against the sellers the petitioner will be discharged from the undertaking given to this court. If, however, they chose to pursue their legal remedy qua the flat then they shall also file an undertaking before this court not to sell, transfer or alienate the flat in question by 25.01.2012.

(iii) Any proceedings initiated by the applicants before the competent authority/ Financial Commissioner will be examined and concluded expeditiously by the said authority preferably within four months of the institution of the proceedings.

(iv) The notice of contempt stands discharged accepting the apology of the applicants in CM No. 12469/2011.”

4. On receiving the said directions, the petitioner approached this Court by way of said revision petition.
5. In these cases, various facts have to be evaluated and clarified qua entitlement of petitioner as owner of flats, examination/acceptance of Enquiry Report by Competent authority/RCS.
6. In view of the above, petitioner is directed to approach the RCS for conclusion of proceedings initiated by the authority. RCS is also directed to conclude the same expeditiously keeping in view the observations made by the High Court in order dated January 20, 2012 in WPC 5351/2010. The petition is disposed of accordingly.
7. File be consigned to record room after completion.

(D.M. Spolia)
Financial Commissioner
Delhi.