

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No 85/2013

In the matter of :

**Sh. Subhash Chander Dua
S/o Late Sh. Harbans Lal Dua,
R/o Flat No. A-4, Vandana Appt.,
Sector-13, Rohini,
Delhi-110085**

.....Petitioner

(Represented by Shri Rajender Gulati, Counsel for the Petitioner)

Versus

- 1. Registrar of Coop. Society,
Govt. of NCT of Delhi,
Parliament Street, Connaught Place,
New Delhi-110001.**
- 2. Ms. Noor Fatima
R/o B-1/16, Yamuna Vihar,
New Delhi-110053.**
- 3. Maulana Azad Coop. H.B. Society Ltd.
Through its Administrator
Sh. Pawan Joshi, Dy. Director (AR),
Govt. of NCT of Delhi,
Administrative Reforms Deptt.,
7th Floor, C-Wing, Delhi Secretariat,
I.P. Estate, Delhi.
Also at :
1520-A, Katra Bihari Lal,
Qasimjee Street, Ballimaran,
Delhi-110006.**

.....Respondents

(Represented by Shri Shyam Sunder, Counsel for R-1, RCS)

NAINI JAYASEELAN, FINANCIAL COMMISSIONER

Order dated 21st August, 2015

1. This order will dispose of the review petition under Section 116 of the Delhi Co-operative Societies Act, 2003 filed by the petitioner against the order dated 07.02.2013 passed by the

Registrar of Cooperative Societies (hereinafter called RCS). Vide this order RCS held that no disqualification is attracted by Ms. Noor Fatima for cessation of her membership in Maulana Azad CHBS Ltd.

2. Petitioner in his revision petition narrated the brief facts of the case which are as under :

- (a) Shri Sardar Khan, grandfather of Ms. Noor Fatima, Respondent No. 2 was the original member of the society, enrolled in the year 1967.
- (b) Shri Sardar Khan applied for transfer of membership in the name of Ms. Noor Fatima vide letter dated 05.08.1985 which was rejected by the Society vide letter dated 21.7.1991 as she was not within first degree blood relation with her grandfather.
- (c) Shri Sardar Khan had also filed another application dated 21.9.1982 with DDA and disappeared. RCS having presumed the original member as dead, passed an order dated 20.3.2003 allowing the transfer of membership in favour of R-2.
- (d) Ms. Noor Fatima after getting her name cleared by RCS and DDA was got allotted plot in her name.
- (e) Petitioner further stated that order dated 20.3.2003 passed by RCS was against law as the transfer of shares is allowed only in first degree blood relation and it is admitted fact that Ms. Noor Fatima not within the first degree blood relations with Shri Sardar Khan.
- (f) There is no order of any civil court and/or death certificate of Shri Sardar Khan and the presumption of death of Shri Sardar Khan by the RCS cannot be sustained without proof of the same.
- (g) Ms. Noor Fatima was never in need of any residential property. She entered into an agreement to sell, even before the allotment of plot by the DDA on 28.5.1985 with the petitioner for

a sum of Rs.65 Lakhs. Later on she got allotted the Plot No.89 from DDA. Due to hefty increase of land price, she backed out from the deal. A civil suit for specific performance for enforcement of agreement dated 28.5.2005 is also pending before Hon'ble High Court of Delhi.

3. Petitioner who had filed the complaint against R-2 before the RCS, has filed this review petition on the following grounds :

- (i) That the order passed by the Registrar is against law and facts and it is not a speaking order.
- (ii) Registrar has ignored the fraudulent transfer of membership of Ms. Noor Fatima and has not given any cognizance to the same.
- (iii) Registrar has erred and ignoring all the directives, circulars of their own office.
- (iv) Registrar has failed to consider the arguments and the citations addressed by the Counsel for the Appellant/complainant.
- (v) Registrar has ignored various provisions of DCS Act and Rules, including section 91, which talks of immediate cessation of membership, on entering into an agreement to sell.

4. During the proceedings on 22.05.2015, Counsel for Petitioner submitted that impugned order dated 07.02.2013 passed by the RCS needs to be remanded back. Counsel further submitted the judgement from Supreme Court of India dated 20.02.2008 in the case titled as "**K.V. Rami Reddi V/s Prema**" wherein it was held that "*the trial judge had not completed the judgement before he delivered his decision. Hence, it is directed that the arguments be heard afresh and the trial Court shall deliver its judgement as early as possible.*" But I have observed that in the present case, petitioner in its petition has nowhere stated that the RCS pronounced the decision before completion of the judgement.

5. Counsel for Petitioner further submitted judgement dated 12.09.2005 of Hon'ble Supreme Court of India in the case titled as "**Jasvir Singh and others Vs. Land Acquisition Officer, Rampur and another**" wherein Court remanded the matter back to High Court for decision afresh. The facts of present case are not covered with the judgment of Apex Court.

6. I have considered all the facts on record and heard both the sides. It has been correctly held by the RCS that even if there is no civil suit pending before the Hon'ble High Court for the specific performance of the agreement dt. 28.12.2005, it is not for the RCS to go into validity of this agreement to sale. This court further extends this argument and reiterates that it is not for this forum to go into the validity of the said agreement which is pending before the Civil Court. It is already abundantly clear that since agreement of sale is not a ground for disqualification under Rule-20(1)(c) of the DCS Rules, 2007, there is no way in which Ms. Noor Fatima can be disqualified on this ground.

7. I, therefore, do not find any merit in the revision petition and the same is dismissed. No order as to costs.

8. Pronounced in the open Court on 21.08.2015.

(NAINI JAYASEELAN)
FINANCIAL COMMISSIONER
21st August, 2015.