Case No. 286 of 2024

Rajesh Kumar Jain
Vs.
Registrar Cooperatives Societies & Anr.

29.01.2026

Present : Shri Nitin Kumar Gupta, Counsel for Petitioner.
: Ms. Vasu Singh, Counsel alongwith Shri Vinod Mishra, Section Officer & Sh. Deepak Kumar Sr. Assistant for R-1, RCS.
: Shri Abhinav Sharma, Counsel for R-2, Bank.

1. The present revision petition has been filed under section 116 of Delhi Cooperatives Societies Act, 2003 against the impugned order dated 14.08.2024 passed by the R-1, RCS.

2. The Counsel for Petitioner filed rejoinder to reply to queries on behalf of the petitioner and shared copy with opposite side.

3. Regarding query no.1 of the order dated 11.12.2025, Counsel for R-1/RCS submitted that under Section 66(1) of the Delhi Cooperative Societies Act, 2003, the Registrar is empowered to order an inquiry into the constitution, working and financial condition of a cooperative society where circumstances so warrant. In the present matter, a report dated 28.06.2022 was received from the Central Bureau of Investigation (CBI), which disclosed sufficient material for launching prosecution against the Petitioner and six other persons for serious financial irregularities, including offences under Sections 120-B read with Sections 409 and 471 of the IPC and Sections 13(1)(c) and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. Hence, vide order dated 05.09.2023, the then Registrar Cooperative Societies, GNCT of Delhi, in exercise of powers under Section 66(1) of the Act, ordered inquiry into the conduct of the concerned persons.

4. On query of this Court regarding completion status of the inquiry, the representative of RCS submitted that the Inquiry Officer is seeking CBI report but in spite of 3-4 reminders, CBI has not granted permission to share it with Inquiry Officer. Counsel for RCS submitted that the petitioner is participating in the inquiry u/s 66 and CBI is not granting the permission to share the document. Hence, the inquiry has not proceeded any further.

5. Counsel for Petitioner submitted that the petitioner is cooperating, assisting and participating in the inquiry u/s 66 (1) and as per the reply of RCS, the inquiry is pending due to delay by CBI. He agreed that the maintainability of the inquiry u/s 66 is not a subject matter and has attained finality as per the order of this Court dated 26.07.2024 in revision petition no.228/2023.

6. Counsel for Petitioner further submitted that the impugned order was passed by RCS without giving any show cause notice to him and the RCS could have taken action u/s 138 of the DCS Act, 2003. In the absence of a show cause notice and further passed the impugned order by the RCS, pending the inquiry u/s 66, on the same set of allegation and that too without notice to him is illegal.

7. Regarding query no.2 of the order dated 11.12.2025, Counsel for RCS submitted that the impugned order dated 14.08.2024 was issued in exercise of statutory supervisory powers under Section 138 of the Delhi Cooperative Societies Act, 2003, which empowers the Registrar to issue directions to a cooperative bank in the interest of proper management and to protect the interests of members and depositors. There is no provision under Section 138 of the Act mandating issuance of a Show Cause Notice or grant of personal hearing prior to issuance of such directions. The power under Section 138 is administrative and preventive in nature, intended to ensure that the affairs of the cooperative society are conducted in a manner not

detrimental to public interest. The directions issued vide order dated 14.08.2024 are interim, regulatory and non-punitive, and do not amount to removal, supersession or disqualification. Consequently, the principles of prior hearing were not statutorily attracted at that stage.

8. Counsel for Petitioner denied the RCS response on query no. 2 as false and misconceived. It is submitted that the principles of natural justice are inherently applicable to all administrative and quasi-judicial actions, even where a statute is silent, as guaranteed under the Constitution of India. He quoted judgement of Hon'ble High Court of Delhi in the matter of "***Sandeep Antil v. Staff Selection Commission***" which relied on the judgement of Hon'ble Supreme Court in case of "***Biecco Lawrie Ltd. Vs. State of W.B.***", wherein it is held that a clear, precise, and effective notice and opportunity of hearing are indispensable, and absence thereof vitiates the decision. In the present case, Respondent No. 1 passed an adverse order without issuing any notice or affording any opportunity of hearing to the petitioner, rendering the action arbitrary, illegal, and in violation of natural justice. The reliance on Section 138 of the DCS Act, 2003 to dispense with notice is misconceived, as statutory silence cannot override constitutional mandates. Consequently, the impugned action is unsustainable in law. He stated that by the impugned order, the Chairman has been practically devoid of all powers that he is entitled to exercise by virtue of being elected to the post.

9. Regarding query no.3 of the order dated 11.12.2025, Counsel for RCS admitted that Chief Executive Officer of Jain Cooperative Bank Ltd. is not competent to grant prosecution sanction under the Delhi Cooperative Societies Act, 2003 and as per the legal opinion of the Department of Law & Justice, GNCT of Delhi, taken by RCS, prosecution sanction in the present matter arises primarily under the Prevention of Corruption Act, 1988 and the Chairman holds an office in public trust. The

matter also does not fall within the jurisdiction of the Registrar Cooperative Societies under Section 19 of the Prevention of Corruption Act, 1988. It was further opined that the matter falls within the jurisdiction and competence of the cooperative bank itself.

10. The Counsel for RCS submitted that the CEO of the bank is not competent to grant prosecution sanction under the DCS Act, 2003. The CEO of the bank was advised that :

The entire matter has been examined in detail in the light of the request made, provisions of law under the Prevention of Corruption Act. 1988 and decided cases in this regard. After detailed examination, this office is of the opinion that this particular request for sanction of prosecution does not come under the purview of Section 19 of the Prevention of Corruption Act, 1988, so far as the jurisdiction of this office is concerned. The case in question for sanction of prosecution partially and implicitly comes under section 19 (c) of the Prevention of Corruption Act, 1988. The matter was examined in depth and the Registrar of Cooperative Societies is not competent to remove the persons named in the request from their office. Hence, the case is not covered u/s 19 (c) also. Hence, the matter in question falls under the jurisdiction and competent of the bank. As per the available records, the Chief Executive Officer of the Jain Cooperative Bank is the highest executive authority of the bank. The decision in the matter may be taken at your end keeping in view the relevant provisions of law and related decisions of competent courts in this regard".

After getting the opinion of Law and Justice Department, GNCTD, it is further advised to the CEO Bank:

It is stated that this department is not the competent authority to take any decision on the submissions received by the bank from Sh. Rajesh Kumar Jain & 04 Other accused person. Further, it is also informed that the matter has been referred to Law and Justice Department, GNCTD for their opinion on competent authority to grant prosecution sanction in the matter, wherein, it is opined by Law and Justice Department, GNCTD that the Jain Co-operative Bank, Delhi is discharging "Public Duty" as the same is handling and dealing with the public money and thus Chairman of the said Bank seems covered under the definition of "Public Servant" in terms of clause 2 (b) of PC Act, 1988. Further, it is also opined by the Law and justice Department, GNCTD that Bye-law 19 of byelaws of Jain Cooperative Bank Ltd. provide that the final authority of the bank shall vest in the General Body. Byelaw 21 provides that General Body shall elect one Chairman, One

Vice Chairman, and 10 Directors. Hence the General Body of the Jain Cooperative Bank may be competent to take a decision regarding grant of prosecution sanction of Shri Rajesh Kumar Jain. And that Sh. Rajesh Kumar Jain and other accused cannot take part in such meeting of General Body of the Bank where the matter of grant of prosecution sanction against them is to be decided"

11. The Counsel for Petitioner denied the contents of reply to query no. 3, except to the limited extent that the Chief Executive Officer of Jain Cooperative Bank Ltd. is not competent to grant prosecution sanction under the Delhi Cooperative Societies Act, 2003. It is submitted that any legal opinion received by the Bank cannot override settled law, and in any event, the petitioner is neither aware of nor responsible for such opinion. The CEO lacked jurisdiction to accord sanction, particularly when the petitioner is not a government servant. It is further submitted that R-1 has already initiated an inquiry under Section 66 of the DCS Act on the same set of allegations, which is presently pending. Therefore, the impugned order dated 14.08.2024, passed during the pendency of the said inquiry, is arbitrary, mala fide, and without authority of law, having been issued in undue haste and for extraneous considerations. Consequently, the impugned order is liable to be set aside.

12. Regarding query no.4 of the order dated 11.12.2025, Counsel for RCS submitted that Section 121(2) of the Delhi Cooperative Societies Act, 2003 is limited in its application to offences punishable under the said Act alone. The said provision does not confer authority upon the Registrar Cooperative Societies to accord sanction for prosecution in respect of offences under the Indian Penal Code or the Prevention of Corruption Act, 1988. Sanction for IPC offences is governed by Section 197 of the Code of Criminal Procedure, while sanction for offences under the Prevention of Corruption Act is required to be obtained strictly in accordance with Section 19 thereof wherein the competent authority is empowered to remove the accused from service. Based on the legal opinion furnished by the Department of Law & Justice, GNCT of

Delhi, the competent authority for grant of prosecution sanction in the present factual matrix was held to be the General Body of Jain Cooperative Bank Ltd. and not the Registrar Cooperative Societies or the CEO of the Cooperative Bank. However, the representative of the RCS present in the Court submitted that the office of RCS was intimated by CEO of the Bank about proposed meeting of General Body of the Bank wherein one of the Agenda item was to discuss grant of sanction prosecution against the Petitioner and other accused persons. It was also intimated that all the concerned persons were duly informed through Public Notice published in the leading news paper about the Agenda item. The office of RCS vide communication dated 25.11.2024 declared the Agenda regarding grant of prosecution sanction of the Petitioner null and void for the reason that the Petitioner was not issued proper notice for the same.

13. The Counsel for Petitioner denied the contents of reply to query no. 4 as false, misconceived, and legally untenable. It is submitted that, as per the legal opinion of the Department of Law & Justice, GNCT of Delhi, the competent authority to consider and grant prosecution sanction in the present matter is the General Body of Jain Cooperative Bank Ltd., which has expressly refused to accord such sanction. In the absence of a valid sanction from the competent authority, any consequential proceedings or adverse action taken by Respondent No. 1 are without jurisdiction, arbitrary, and unsustainable in law.

14. From the facts of the case, it is clear that the petitioner was not given any opportunity to present his side before initiating inquiry u/s 66 of DCS Act, 2003 by the RCS. This is a violation of principle of natural justice. Again, in natural justice while taking action under the provisions of Section 138 of the DCS Act, a show cause notice should have been issued to the petitioner even if the statute does not mandate it. As per the submissions of the

Counsel for RCS, the Inquiry Officer appointed under Section 66 could not proceed further due to non-availability of requisite CBI findings as the CBI did not give any consent to the disclosure of its findings to the RCS to be even shared with the Inquiry Officer to proceed further in the matter. Without specific allegations in the matter, the Inquiry Officer has not been able to proceed.

15. In the light of the above, this Court is of the considered view that the office of RCS should endeavour to bring such concerns with CBI and seek directions as to what extent the report/findings can be disclosed to the petitioner, Inquiry Officer and the governing body of the Bank so that the inquiry can proceed further and governing body of the Bank come to any conclusion. The de-monetisation incident is well over, and the RCS should find out whether CBI is willing to disclosure of its findings at this stage, within certain guard rails. The governing body of the bank also cannot take an independent decision on prosecution sanction in the absence of the report/findings of the CBI. Accordingly, the case is remanded to RCS with the direction to seek clarifications from CBI to enable the Inquiry Officer to decide the matter preferably within next three months. Accordingly, the revision petition no.286/2024 titled ***"Rajesh Kumar Jain Vs.*** **Registrar Cooperatives Societies & Anr.**" is disposed of in terms of the above.

16. File be consigned to record room after completion.

(PRASHANT GOYAL)
Financial Commissioner
Delhi

Case No. 89 of 2025

'Nav Jagriti CGHS Ltd.
Vs.
Asstt. Collector, Gr.I & Anr.'

29.01.2026

Present : Shri S.K. Sharma, Counsel for Petitioner.
: Ms. Vasu Singh, Counsel along with Shri Nafis Ahmed, ASO for R-1, RCS.
: Shri Tejvir Singh, R-2 in person.

1. Counsel for Petitioner society submitted that the petitioner is a duly registered Cooperative Group Housing Society governed by the Delhi Cooperative Societies Act, 2003. The General Body of the Society, in its AGM dated 28.10.2007, resolved that maintenance charges shall be payable by all members with effect from 01.04.2004, irrespective of occupation or allotment. R-2, a member of the Society, sought refund of maintenance charges, which was rejected by the Managing Committee and later by the General Body.

2. Despite this, R-2 initiated arbitration and obtained an Award dated 05.12.2015 issued by Arbitrator directing Society to refund of Rs.1,17,400/- with interest. The Award of Arbitrator was upheld by the Delhi Cooperative Tribunal. Thereafter, a Recovery Certificate was issued under Section 105 of the Act by the Asstt. Collector/ARCS.

3. The petitioner challenged the execution and recovery proceedings on the ground of non-compliance with mandatory provisions of Rule 124 of the DCS Rules, 2007, including delay, absence of requisition of original records, non-entry in the Demand Register and lack of a distinctive case number. The impugned action of R-1 is arbitrary, contrary to statutory provisions, and ignored the unanimous decision of the

General Body dated 16.10.2022 rejecting the claim of refund.

4. The counsel for Petitioner society also refer to the Section 30 (1) of Delhi Cooperatives Societies Act, 2003 which is reproduced here '*The final authority in a co-operative society shall vest in the general body of members : Provided that where the bye-laws of a co-operative society provide for the constitution of a smaller body consisting of delegates of members of the cooperative society elected or selected in accordance with such bye-laws, the smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the co-operative society.*' He went on to add that stipulation under Rule 94(1) of the DCS Rules 2007 is inconsistent with Section 30(1) of the DCS Act 2003 and should be ignored.

5. R-2 herein contended that Petitioner society had preferred an appeal against the award dated 05.12.2015 passed by the Arbitrator before DCT. R-2 also stated that society is not above law and cannot pass resolution contrary to the statute and law laid by Hon'ble Supreme Court of India and Hon'ble High Court of Delhi. The DCT vide order dated 04.01.2017 dismissed the appeal of the Petitioner society on the ground that there is no illegality, impropriety or infirmity in the impugned order.

6. Counsel for R-1, RCS submitted that the impugned attachment order dated 27.02.2025 was passed by the Assistant Collector Grade-I who has been vested powers of Civil Court acting as Recovery Officer under Section 105 of the DCS Act, 2003 read with Section 48 of the Delhi Land Revenue Act, 1954, in execution of a money award as a civil court decree. The impugned order is neither passed by the Registrar nor carries the concurrence of the Registrar. Hence, the

revision petition under Section 116 of the DCS Act is not maintainable, the Assistant Collector Grade-I has been wrongly impleaded as R-1, and the petition is liable to be dismissed.

7. It is seen from the records that DCT vide order dated 04.01.2017 held that *Petitioner's society appeal was dismissed citing Rule 94 (1) explanation (II) (a) of DCS Rules 2007 specifically provides that the building maintenance fund shall be realizable from the date of handing over of the possession of the flats to the members by the co-operative housing society* and therefore, there is no force in the contention raised by the Ld. Counsel for Petitioner society. The R-2 also does not dispute payment of maintenance charges after taking over the possession of his flat.

8. The contention of Petitioner that the Rules are subservient to the Act cannot be disputed. However, there is no inconsistency in the Rule 94(1) vis-a-vis Section 30 (1) DCS Act 2003. The General Body has to act in conformity with the statute and cannot decide beyond that. There is a clear finding of the DCT regarding legality of award, therefore, this Court is not inclined to interfere with the same. Accordingly, the revision petition bearing no.89/2025 titled ***'Nav Jagriti CGHS Ltd. Vs. Asstt. Collector, Gr.I & Anr.'*** is dismissed.

9. File be consigned to record room after completion.

(PRASHANT GOYAL)
Financial Commissioner
Delhi

Case No. 95 of 2025

Shri Rajiv Gupta
Vs.
The Paras Coop (U) T/C Society Ltd. & Ors.

<u>29.01.2026</u>

Present : Shri Akshay Bhardwaj, Counsel for Petitioner.
: Shri R. P. Sahoo, Counsel for R-1, T/C Society.
: Ms. Vasu Singh, Counsel alongwith Shri Shahid, Sr. Asstt. and Shri Ashish Mahto, MTS for R-5, RCS.

1. Counsel for Petitioner submitted that he is willing to settle the matter amicably out of the court and requested more time to settle the same. Request is allowed.

2. Counsel for R-1, T/C Society has no objection to settle the dispute amicably out of the Court.

3. Counsel for R-5, RCS submitted that although the Petitioner is aggrieved by the exorbitant Award dated 18.08.2023 passed by the Arbitrator, has not been challenged by the Petitioner before the appropriate forum of DCT till date.

4. On the request of the Petitioner as well as R-1, T/C Society for waiving off the cost of Rs.2000/- and Rs.5000/- respectively, the request is allowed and the costs are waived off.

5. Keeping in view of the above, final opportunity is given to both the parties to attempt to settle the dispute amicably out of the Court which was also agreed by the RCS and R-1, Society. Two months' time is granted for the same and during this time, no coercive action shall be taken against the Petitioner. Anytime during the process, if Petitioner perceives that the settlement is not proceeding further, he may approach the appropriate forum against the award, which is being disputed. In case of potential disputes, if any, against a future execution proceeding, the Petitioner shall have the liberty to approach this Court.

6. Accordingly, the revision petition no. 95/2025 titled ***Shri Rajiv Gupta Vs. The Paras Coop (U) T/C Society Ltd. & Ors.*** is disposed of in terms of the above.

7. File be consigned to record room after completion.

(PRASHANT GOYAL)
Financial Commissioner
Delhi

Case No. 216 of 2025

Shri Sanjeev Aggarwal & Ors.
Vs.
RCS & Anr.

29.01.2026

Present : Shri N. S. Dalal, Counsel for Petitioners.
: Ms. Vasu Singh, Counsel alongwith Shri Sushil Kumar, Sr. Asstt. for R-1, RCS.
: Shri Sandeep Kumar, Counsel for R-2, Society.

1. Counsel for Petitioners filed written submissions as well as rejoinder and copy of the same supplied to the Respondents. Counsel for Petitioners contended that the Registrar vide Impugned Order dated 25.08.2025 revoked the membership of 10 members (Petitioners herein) which was earlier granted vide letter dated 10.07.2025 issued by Addl. RCS without granting any opportunity or notice for hearing to the affected parties. Therefore, the impugned order has been passed in violation of principle of natural justice.

2. Counsel for Petitioners further contended that their memberships were approved on 10.07.2025 in accordance with provisions of Section 91 of DCS Act, 2003 whereby their rights have been accrued which cannot be taken back without any valid reason and without any opportunity of hearing. The case of the Petitioners is that they are the lawful owners of flats in R-2, Society having purchased the same through registered sale deed/agreement to sell. The Petitioners applied for transfer of membership in their respective names as per provisions of Section 91 of DCS Act r/w Rule 92 of DCS Rules after depositing the required documents alongwith requisite fees. As the R-2, Society was under the overall charge of Administrator, the applications were forwarded to the RCS. The Petitioners received intimation dated 11.07.2025 from the Administrator that their memberships were approved by Addl. RCS. Accordingly, the Petitioners enrolled as Members and share certificate were issued in their names. The Petitioner thereafter received another communication from the Secretary of the R-2, Society that their membership previously approved on 10.07.2025 has been revoked by the Order dated 25.08.2025. At the time of granting membership under Section 91, the documents submitted by the Petitioners were properly checked and approved and no deficiencies were pointed out in

the revocation order dated 25.08.2025. The RCS has no power to cancel the valid letter dated 10.07.2025 issued by the Addl. RCS for granting membership to 10 Petitioners.

3. Counsel for Petitioner further stated that the Administrator was empowered under Section 37(3) of the Act to send applications to the RCS for granting of prior approval for transfer of membership to the Petitioners which he correctly approved. Therefore, RCS has acted in a illegal manner to revoke the memberships. Counsel for Petitioners prayed for setting aside of the Impugned Order dated 25.08.2025.

4. Counsel for R-1, RCS submitted that the present revision petition is misconceived, devoid of merit and not maintainable either in law or on facts. The petitioners have suppressed material facts and failed to comply with the mandatory procedure under the DCS Act, 2003 and Rules, 2007.

5. Counsel for R-1, RCS further submitted that under Section 37(3) of the Act, an Administrator cannot enrol new members without prior approval of the Registrar and such approval must strictly follow the statutory procedure. Section 91 of the Act provides for a specific mechanism for transfer of membership upon sale of a flat/plot, where the purchaser applies to the Society and in case of refusal by the MC, the applicant may appeal to the Registrar. In the present case, there is no record of refusal by the Society, nor any appeal filed by the petitioners before the Registrar. Thus, Addl. RCS had no jurisdiction to grant membership directly as his role is confined as appellate authority under Section 91. In view of legal infirmities, the R-1, RCS vide impugned order dated 25.08.2025 rightly revoked the letter dated 10.07.2025 issued by Addl. RCS and hence, the impugned order is sustainable in law.

6. Counsel for R-2, Society filed reply and copy of the same supplied to the Petitioner as well as R-1, RCS. Counsel for R-2 stated that the order dated 10.07.2025 was passed by the Addl. RCS without authority, as powers under Section 91 of the DCS Act, 2003 were not delegated to him. This order was rightly recalled by the Registrar on 25.08.2025 and the Petitioners have deliberately not filed the copy of the Order dated 10.07.2025 which shows that membership was granted without completing the required codal formalities. The

Administrator acted in collusion with the Petitioners by issuing membership letters to the Petitioners clearly violating the law.

7. Counsel for R-2, Society further stated that the Hon'ble High Court of Delhi had repeatedly directed that elections be conducted in the R-2, Society but the Administrators delayed and manipulated the process to favour one candidate, Mr. Arya Muni. The Hon'ble High Court removed the then Administrator on 22.05.2025 and later on also, removed successor Administrator on 07.07.2025 by appointing an independent Returning Officer to conduct elections. Even, after elections were held, the Administrator failed to hand over records to the newly elected Managing Committee, despite clear directions of the Hon'ble High Court on 11.08.2025. Petitioners had never applied to the Managing Committee, which is the competent authority for transferring of membership instead of that, they directly approached the RCS under Section 91, bypassing the mandatory procedure. Section 91 allows appeal to the Registrar only in case of refusal by the Committee, which is not the case here.

8. From the above averments of the Petitioners, R-1, RCS and R-2, Society, the main issue which emerges in the present case is that the petitioners are subsequent purchasers of flats in the Society and have sought transfer of their memberships in the Society in their names which is the mandate of the Section-91 of the DCS Act, 2003. It is also noted that when the Petitioners applied for transfer of membership, the Society was under the overall charge of the Administrator appointed by the RCS and there was no Managing Committee in the Society at that point of time. Therefore, the Administrator forwarded the applications of the Petitioners to the O/o the RCS for further necessary action in the matter. The Administrator vide communication dated 11.07.2025 informed the Petitioners that their memberships was approved by the Addl. RCS on 10.07.2025, accordingly, the petitioners were granted memberships and share certificates were issued in their names.

9. The Society as well as the RCS pointed out that the provisions of Section-91 were not followed while granting the memberships to the Petitioners as the memberships of the Petitioners are to be first approved by the managing committee of the society and only then if MC declines granting

the membership, the subsequent purchasers may approach the Registrar in appeal against the same. From the averments of the Society as well as the RCS, it is seen that this process was never followed. There was no elected MC to deliberate on membership plea of purchasers and Addl. RCS exceeded his jurisdiction by grant of membership based on mere forwarding of application by the then Administrator.

10. The Court therefore upholds the order of RCS No. F.47/ARH/237-GH/Sec.-II/2024/91 dated 25.08.2025 and direct that the end of justice would be served, if the matter is remanded and RCS is directed to get the process completed through the elected MC, which is now in place. The Petitioners herein are directed to submit their applications qua transfer of memberships to the current MC of the Society and the Society is directed to take a decision on the same within one month of receipt of applications. The RCS is directed to supervise compliance of the action in a time-bound manner by the Society, once the petitioners have filed their claim. Needless to say that all legal remedies will be available to all the parties to agitate their grievances, if any, that remain subsequent to laid down process under the Act and Rules.

11. Accordingly, the revision petition bearing no. 216/2025 titled ***Shri Sanjeev Aggarwal & Ors. Vs. RCS & Anr.*** is disposed of in terms of the above.

12. File be consigned to record room after completion.

(PRASHANT GOYAL)
Financial Commissioner
Delhi

Case Nos. 149, 150 & 151 of 2025

29.01.2026

Present : Shri S.K. Sharma, Counsel for Petitioner.
: Shri Akshay Bhardwaj, Counsel for R-3.
: Ms. Vasu Singh, Counsel alongwith Shri Ashish Mehto, MTS for R-6.

1. The Counsel for Petitioner submitted that one order of Ld.Chief Metropolitan Magistrate, Karkardooma court in which specifically pointed out that it is submitted by the AR of the complainant that they have received complete payment from the accused person in a proceeding under Section 138 of Negotiable Instrument Act regarding bounce of cheque issued by Respondent. The statement of accounts was also filed before the Ld.MM on 17.04.2023 and a copy of the same has been filed by Counsel for R-3 before this court.

2. The Counsel for Petitioner referred to Section 60 CPC and submitted that the Section 60 CPC applies only to the recovery of the Civil Court and in this regard he has relied upon judgment passed by Hon'ble High Court in case titled "State of Punjab Vs. Deena Nath".

3. The Counsel for R-3 submitted that the Petitions are not maintainable as the said petitions are mis-conceived attempt by society to invoke revisionary powers conferred by this court. The revisionary powers shall not be confused with executing powers of the court of Asstt. Collector. The Asstt. Collector works under the supervision of RCS. The Counsel also referred Rule 132 of DCS Rules, 2007 which states that – *"132. Attachment of salary or allowances of public officer or of servant of a Railway Administration or local Authority : In case the movable property to be attached is that salary or allowance or wages of a public officer or of a servant*

of railway administration or local authority or a firm or a company, the Recovery Officer may order in Form No.36 that the amount shall, subject to the provisions of Section 60 of the Code of Civil Procedure, 1908 (Act V of 1908), be withheld from the such salary or allowance or wages either in one payment or by monthly instalments as the Recovery Officer may direct and upon notice of the order, the officer or other person whose duty is to disburse such salary or allowances or wages shall withhold and remit to the Recovery Officer, the requisite amount." The Counsel further submitted that the Petitioner should have approached the Assistant Collector for recovery certificate. He added that Rule 132 of the DCS Rules, 2007 extends provision of Section 60 CPC for recoveries under DCS Act.

4. The Counsel for R-5, DDO, Akashwani submitted that the Department has not received the copy of the Petitions in case Nos.149 & 150 of 2025. The Petitioner is directed to provide a copy of the petitions to the Respondent. She pleaded that the employer is bound to attach salary only in compliance of Section 60 CPC and cannot go beyond the same.

5. The matter is adjourned to 12.02.2026 for arguments.

Financial Commissioner
Delhi

Case No. 57 of 2010

Sh. Sushil Bansal & Ors.
Vs.
Registrar Cooperatives Societies & Ors.

29.01.2026

Present : Shri Sandeep Kumar, Counsel for Petitioners.
: Ms. Vasu Singh, Counsel alongwith Shri Nafeesh Ahmed, Asstt. Section Officer for R-1, RCS.
: Shri Ramneek Mishra and Sh. Abhinav Singh, Counsels for R-3, DCHFC.

1. The present revision petition has been filed under section 116 of Delhi Cooperatives Societies Act, 2003 against the impugned order dated 15.12.2009 passed by the Assistant Collector, Grade-I whereby the entire property of the Shankar CGHS Ltd./R-2 has been attached and public at large is cautioned of entering into any sale or purchase of the property/flat in Society/R-2.

2. The Counsel for Petitioner submitted that the petitioners are challenging the legality and correctness of the public notice/impugned order dated 15.12.2009 passed by the Assistant Collector, Grade-I. The Petitioners are the bonafide members of the Respondent Society. The petitioner no.1 was allotted the flat No.77 by the Society and possession handed over on 23.05.1995. The Petitioner No.1 is the original allottee and made the entire payment of the flat to the Society on 09.03.1994 and never availed of any loan facility from the DCHFC. The Petitioner No.2 is also the original allottee of the Society and availed the DCHFC loan facility through Society and Rs.75,000/- was the loan amount as sanctioned by the Society. He cleared all the dues of the loan of the DCHFC to the Society on 29.04.1999 and accordingly 'No Dues Certificate' was issued by the Society/R-2 in favour of the Petitioner No.2, who got his flat free hold from the Delhi Development Authority and the conveyance deed was duly executed in his name. The Petitioner No.3 is a attorney of Sh. K. L. Batra, original allottee of the Flat No. 64, who availed the loan facility of Rs.86,000/- from the

DCHFC through Society. The Society issued 'No Dues Certificate' in the name of Sh. K. L. Batra on 01.09.2002, after clearance of the DCHFC loan. The Petitioner No.3 applied for the membership in the Society under section 91 of the DCS Act and the same was granted to him, and the Society issued the share certificate dated 10.02.2008 in his name.

3. The Society consists of 146 members and out of 146, Society procured the loan on the request of about 70 members and subsequently maximum members had already paid their entire dues alongwith the interest to the Society for the loan amount which was sanctioned by the DCHFC through Society and the Society at the time of clearance of the DCHFC dues by the respective members had also issued No Dues Certificate in favour of the member. It came to the knowledge of the members of the Society that the DCHFC had filed a recovery case against the Society and on enquiry it was revealed that the then superseded Managing Committee which consist of Sh. Hemant Bhanot, President, and Sh. N. P. Verma has played the fraud with the members of the Society as even after collecting the entire loan amount from the members, they had deliberately defaulted in depositing the same with the DCHFC. Thereafter, the Petitioners alongwith 1/3rd members of the Society sent a detailed representation to the office of Registrar Cooperative Societies requesting to hold enquiry and inspection against the bungling and misappropriation of the funds by these two persons. On 20.07.2009, the Petitioners along with 1/3rd members of the Society send one requisition to the Society to call a Special General Body Meeting and the copies of the same were also delivered to the office of RCS and on the request of these members on 23.08.2009, the superseded President issued the meeting notice and called a Special GBM on 06.09.2009. Therein no confidence motion was passed against the superseded Managing Committee and Adhoc committee was formed

in the Society. On 16.09.2009, the Petitioner No.3 being one of the members of the Adhoc committee submitted the minutes of the Adhoc committee in the office of RCS with covering letter. During the Special GBM, it came to the knowledge of the P-3 that the execution case filed by the DCHFC is pending before the Collector Recovery, office of RCS and after getting the knowledge of the same, the Petitioners along with other members appeared before the Respondent No.1 herein, along the application and Written Statement but the Respondent No.1 refused to acknowledge the same. With no option, on 27.11.2009, the P-3 sent his Written Statement through Speed Post. However, the R-1 went ahead and on 15.12.2009, he passed the impugned order which came to the knowledge of the Petitioner on 21.12.2009. The office of RCS superseded Managing Committee of the Respondent Society on 19.01.2010, however the Petitioners are still aggrieved by the order dated 15.12.2009 and filed the present revision petition on the ground that the attachment of the entire Society property, including flats of non-defaulters and bona fide members, is arbitrary, disproportionate, and without jurisdiction and impugned order was passed by the Respondent No.1 behind the petitioners without giving them an opportunity of being heard. The Respondent No.1 has, thus, not followed the principle of natural justice before passing the impugned order. The Petitioners prayed for setting aside the order dated 15.12.2009 passed by Assistant Collector, Grade-I, or direct the Respondent No.1 to modify the order and attach the flats of only those members who are the defaulters of the DCHFC loan and the guilty Managing Committee members.

4. The Counsel for Petitioners submitted that the petitioners, being non-loanee members or members who have already cleared their loans and obtained No Dues Certificates, cannot be subjected to recovery or

attachment proceedings initiated for defaults arising out of loans taken by other members. The alleged liability stems from fraud and misappropriation by the members of erstwhile Managing Committee, as confirmed by an inquiry report holding specific office bearers responsible. The settled law, as laid down by the Hon'ble High Court of Delhi in cases titled "***P.K. Kesri Vs. Jeewan Jyoti Coop. Group Housing Society Ltd.", Praveen Mahajan & Ors. Vs. RCS & Ors.", "Devender Sharma & Ors. Vs. RCS" and Meenu Tomar Vs. Registrar of Coop. Group Housing Society Ltd."***, clearly hold that only persons against whom a valid award/decree/order exists and who are actual defaulters can be proceeded against in execution. In the absence of any privity of contract, award, or adjudication against the petitioners, attachment of their flats is wholly without jurisdiction and violative of law. Reliance is also placed on the order dated 17.11.2011 passed by the predecessor Financial Commissioner in revision petition No.51/2010 titled as "***Sudha Chawla Vs. Delhi Cooperative Housing Finance Corporation Limited***" pertaining to the same Society, which categorically held that :

".... Simply because the Society which had taken a loan from the Respondent no.1 on behalf of certain members, had been unable to discharge its obligations does not mean that those members who had not obtained a loan at all, or those members who had taken a loan but had discharged the same like the present Petitioner would also have their properties attached. Such members of the Society cannot be made to shoulder the burden on behalf of those members who have become defaulters and have become recalcitrant in payment. It is clarified that any order passed by the Registrar can impose a penalty of attachment on only those members of the Society who have been remiss in paying their dues timely to the Respondent No. 1........"

5. The Counsel for R-3, DCHFC submitted that the revision petition is not maintainable, barred by limitation, and liable to be dismissed for want of locus standi, as no individualized recovery order or certificate exists against the petitioners and the recovery certificate has been issued solely against R-2/ Society, the principal borrower. The recovery certificate for Rs.79,20,940/- has been

issued only against R-2/Society, which defaulted in repayment of the loan. It is submitted that Respondent No.2 Society obtained loan from DCHFC after passing a General Body Resolution and mortgaged the entire project as security. Upon default, a valid recovery certificate was issued under Section 84 of the DCS Act, 2003, followed by execution proceedings and the impugned public notice/order dated 15.12.2009, which is lawful, proper, and in consonance with the mortgage deed and loan agreement executed between the replying respondent and R-2/Society. All members of the Society are collectively and individually responsible to ensure repayment of the outstanding loan, and their properties can be proceeded against for recovery and that conversion to freehold or grant of membership without NOC of DCHFC is contrary to contractual terms. Allegations of misappropriation by erstwhile Managing Committee are internal matters of the Society and have no bearing on the independent recovery proceedings initiated by DCHFC. Reliance placed by petitioners on certain judgments passed by the Hon'ble High Court of Delhi is misplaced, as those matters are either distinguishable or presently sub-judice before the Hon'ble Supreme Court with interim stays. Given the Society's continuing default (over ₹6.80 crore as on 31.12.2024), the impugned attachment order is asserted to be valid and necessary, and the revision petition deserves dismissal.

6. Counsel for Petitioners submitted that the order dated 17.11.2011 in case no.51/2010-CA and order dated 16.05.2013 in subsequent review petition No.475/2011 passed by the predecessor Financial Commissioners titled ***"Smt. Sudha Chawla Vs. Delhi Coop Housing Finance Corporation Ltd. & Anr."*** pertaining to the same Society have attained finality as the same has not been challenged. Counsel further submitted that his case pertains to the illegal attachment order issued by the Assistant Collector whereby flats of the petitioners have

been attached. He assured the court that he is not intending to seek any NOC for sale of the flats and will not press for the same till the outcome of decision of the Hon'ble Supreme Court. Counsel also stated that the R-1/RCS has not filed any reply till date despite supplying the paper book of the revision petition in 2014.

7. Counsel for R-3, DCHFC submitted that the core issue of present proceedings is already sub judice before the Hon'ble Supreme Court in Special Leave to Appeal (C) No(s).17231/2019 in the matter titled ***"Delhi Coop Housing Finance Corporation Ltd. Vs. Registrar of Cooperatives Societies, Delhi & Ors."*** and the Hon'ble Supreme Court vide order dated 02.08.2019 granted interim stay of the judgement until further orders which is placed on record. The Counsel for DCHFC further submitted that the Hon'ble Supreme Court stayed the judgement dated 27.03.2019 passed by the Hon'ble High Court of Delhi. The Counsel for DCHFC further submitted that the orders dated 17.11.2011 and 16.05.2013 passed by the predecessor Financial Commissioners also rendered inoperative, being subject to the outcome of the said SLP. Counsel further contended that firstly, in the order referred to by Counsel for Petitioner, there is no whisper of attachment and it is in regard to issuance of NOC by the Society. Secondly, if once a wrong is committed because of any misrepresentation/mistake or by any other reason that does not tantamount that wrong should be allowed to be perpetuated. Thirdly, an aspect which can be decided once for all, need not be adjudicated again and create multiplicity on that aspect.

8. After hearing the submissions and contentions of the parties, the main point which emerges is that the petitioners have either not availed any loan from DCHFC or even if availed have paid the same to the Society and obtained NOC for the same are aggrieved by attachment of the entire property of the Society, including their flats, towards recovery of loan of DCHFC.

9. In this regard, this Court has also perused the order passed by the predecessor Financial Commissioner dated 17.11.2011 in which it is held that:

Simply because the Society which had taken a loan from the respondent no.1 on behalf of certain members, had been unable to discharge its obligations does not mean that those members who had not obtained a loan at all, or those members who had taken a loan but had discharged the same like the present petitioner would also have their properties attached. Such members of the Society cannot be made to shoulder the burden on behalf of those members who have become defaulters and have become recalcitrant in payment. It is clarified that any order passed by the Registrar can impose a penalty of attachment on only those members of the Society who have been remiss in paying their dues timely to the respondent no.1. The inevitable conclusion is that the relief claimed by the petitioner is allowed.

The DCHFC also sought review of the above order and predecessor Financial Commissioner vide order dated 16.05.2013 partially allowed the same and held that:

4. In view of the above candid and clear submissions, it would be only appropriate now that the order passed by this Court, by my Ld. Predecessor on 17.11.2011, be amended partially in order to make it exclusively applicable in respect of the interests and the relief sought by Smt. Sudha Chawla so that no undue and unmerited advantages are taken by the other members who may be defaulters. The order dated 17.11.2011 passed by this Court is partially modified and the said impugned order is made applicable qua Smt. Sudha Chawla.

5. While passing this order in review, I am inclined to observe that precaution be taken by R-1, DCHFC and R-2, Administrator/President/Secretary, Shankar Cooperative Group Housing Societies Ltd. as well as the Assistant Collector, Cooperative Societies to ensure that the same mistake of penalising innocent members is avoided. In respect of other members of the Society who are not actually defaulters to DCHFC, no harassment be caused under any circumstances on account of improper calculation/maintenance of accounts.

10. The order dated 27.03.2019 passed by Hon'ble High Court in WPC No. 2939/2019 titled ***'Delhi Coop. Housing Finance Corporation Ltd. Vs. Registrar of Co-operative Societies, Delhi and Ors.'*** is also perused and it is noted that the DCHFC has approached the Hon'ble High Court against order dated 13.02.2017 passed by the DCT whereby the DCT dismissed the appeal filed against Award dated 23.03.2015. The relevant extract of order dated 27.03.2019 are reproduced hereunder:

'.....7. *We do not find any merit in this petition for the reason that so far as respondent No.2 is concerned, admittedly, she had not availed of any loan from the petitioner. The petitioner can have absolutely no claim against respondent No.2 and her flat, in any event, cannot be attached or sold to recover the alleged dues of the petitioner. The petitioner may have a claim against those members who had availed of the loan, and may seek attachment and sale of the flats of such members, in case they have not repaid their loans, or the monies paid by them have not been transmitted to the petitioner.....'*

11. The DCHFC is before the Hon'ble Supreme Court against the above order of Hon'ble High Court and the Hon'ble Supreme Court vide order dated 02.08.2019 stayed the judgement of Hon'ble High Court which is pending final disposal.

12. Now coming to the present case, the Counsel for Petitioners made a categorical submission before this Court that the petitioners will not seek any NOC from the Society for the sale of their flats provided property/flats of the petitioners are removed from attachment proceedings initiated by the DCHFC. They stated that either they have not availed any loan from the DCHFC or have already repaid the same.

13. In view of the fact that the Hon'ble High Court has clearly held that the DCHFC cannot have any claim against the members who have not availed any loan or have repaid the same, therefore, their property cannot be attached or sold to recover the alleged dues of DCHFC. Even the predecessor Financial Commissioners were of the same view and have accordingly passed orders. There is nothing on record to suggest that these orders of the Financial Commissioners are under challenge before higher Courts. This Court is also taking into consideration the submission of unconditional undertaking by the Counsel for Petitioners that they will not seek any NOC from the Society in future and also will not indulge in sale of their flats pending decision of the Hon'ble Supreme Court in SLP No.17231/2019 filed by the DCHFC and also the fact that they have either not availed loan or have repaid the same, no harm will be caused if the flats of all three petitioners are removed from the execution recovery proceedings initiated by the DCHFC. Therefore, flat no.77 allotted to Sh. Sushil Bansal (Petitioner No.1), flat no.137 allotted to Sh. Surender Kumar Sharma (Petitioner No.2) and

flat no.64 purchased by Sh. S. S. Tanwar (Petitioner No.3) are removed from the loan recovery proceedings before the Assistant Collector, Gr.-I. This is an order in respect of claims of these three specific petitioners only. With the above directions, the revision petition no.57/2010 titled ***"Sh. Sushil Bansal & Ors. Vs. Registrar Cooperatives Societies & Ors."*** is disposed of.

14. File be consigned to record room after completion.

(Prashant Goyal)
Financial Commissioner
Delhi