

IN THE COURT OF THE REGISTRAR COOPERATIVE SOCIETIES, DELHI
OLD COURTS BUILDING, PARLIAMENT STREET, NEW DELHI-110001

F.NO.47/GH-1112/AR/SEC-1/GH/RCS/2022 / 3259 - 61

01-26/5/25

IN THE MATTER OF:

Jagat Singh

Petitioner

Versus

Amit Khanna

Respondents

ORDER

This order shall dispose of the proceedings initiated vide Show Cause Notice dated 23.08.2024 issued u/r 20(1)(c)(1) & (iii) (2) of DCS Rules, 2007 read with Section 87 & 41 (d) of DCS Act, 2003 whereby Sh. Amit Khanna was called upon to show cause as to why cessation of membership should not be granted against them U/r 20(1) (c) (i) & (iii) of DCS Rules 2007 read with section 87 & 41(d) of DCS Act, 2003,

The brief facts of the case are as under:-

Ms. Amit Khanna was enrolled as a member of the Bhagwati Co-operative Group Housing Society Ltd. (Regn. No. 1112/GH), Plot no. 1A, Sector-22, Dwarka, New Delhi-110075. The petitioner has stated that the respondent is having a residential property in Delhi bearing No. K-9 Hauz Khas Enclave Delhi. The petitioner accordingly prayed to cease the membership of the respondent on account of disqualification of holding the property bearing property No. K-09 Hauz Khas Enclave.

In his reply dated 12/12/2024, The respondent, Shri Amit Khanna, submitted that the property bearing No. K-9, Hauz Khas Enclave, New Delhi, was never owned by him in his personal capacity. Even the complaint filed by the petitioner does not produce any evidence to prove that the said property was ever held by Shri Amit Khanna as an individual owner.

The respondent submitted that the property in question was actually owned by two private limited liability partnerships, namely M/s Lahar Enterprises LLP and M/s Matis Financials LLP. These entities, being separate legal persons under law, held the valid title of the property. Subsequently, these companies sold the property to third-party purchasers, whose names appear in the documents annexed by the complainant.

The respondent submitted that it is a settled legal principle that a company or LLP is a separate legal entity distinct from its shareholders, directors, or employees. Therefore, any immovable property registered in the name of the company cannot be treated as the personal property of its directors or shareholders, he acted merely as an authorized signatory on behalf of the said companies in executing the sale deed. This is clearly evident from the documents filed by the complainant. Shri Amit Khanna's role was limited to signing on behalf of the companies and does not imply personal ownership of the property. And the society also support his contentations.

It is relevant to read the provisions of DCS Act and Rules in this regard which are as under:

20. Disqualification of membership

(1). No person shall be eligible for admission as a member of a co-operative society if he:-

(c) In the case of membership of a co-operative housing society,

[Signature]

(1) owns a residential house or a plot of land for construction of residential house in any of the approved or un-approved colonies or other localities in the National Capital Territory of Delhi, in his own name or in the name of his spouse or any of dependent children, on lease hold or free-hold basis or on power of attorney or on agreement for sale. Provided that above clause shall not be applicable,

(a) in case of co-sharers of property whose share is less than 66.72 sq. metres of land or if the residential property devolves on him by way of inheritance;


(b) in case of a person who has acquired property on power of attorney or through agreement for sale and on conversion of the property from leasehold to freehold on execution of conveyance deed for it, if such person applies for the transfer of membership of the housing society concerned

(ii) deals in purchase or sale of immovable properties either as principal or as agent in the National Capital Territory of Delhi, or

(i) his spouse or any of his dependent children is a member of any other cooperative housing society

it is pertinent to note that in terms of Section 41(3) of the DCS Act, 2003, the Registrar may of his own motion, if satisfied that any member has incurred any of the disqualification under sub section (1) declare through an order in writing that such member is disqualified to be a member.

Upon careful examination of the facts and submissions, it is established that Shri Amit Khanna does not personally own the property at No. K-9, Hauz Khas Enclave, Delhi. The property is owned by two separate legal entities, M/s Lahar Enterprises LLP and M/s Matis Financials LLP, and Shri Amit Khanna acted only as an authorized signatory on their behalf. Since LLPs are distinct legal entities separate from their partners or signatories, the ownership of the property cannot be attributed to Shri Amit Khanna individually. In light of this, and considering the provisions of Rule 20(1)(c)(i) & (iii) of the DCS Rules, 2007, Shri Amit Khanna is not disqualified from membership. Therefore, his membership in Bhagwati Co-operative Group Housing Society Ltd. is restored and shall continue without interruption.


Anil Kumar Singh
Registrar Cooperative Societies

Sent to:

1. Sh. Jagat Ram D-407, Sri Durga CGHS Sector -12 Dwarka Delhi-110075.
2. Sh. Amit Khanna (Through President/ Secretery)
3. Assistant Registrar (Sec-1), office of R