

**GOVT. OF NATIONAL CAPITAL TERRITORY DELHI**  
**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/2022/3329-32

19.12.2024/5/25

**IN THE MATTER OF:**

Meeta Mittal.

Petitioner

Versus

Guru Ram Dass CGHS Ltd.

Respondents

This order will dispose of the proceedings initiated pursuant to the Order dated 29.08.2023 passed by the Hon'ble Financial Commissioner in Revision Petition bearing No. 113/2017, titled as "Meeta Mittal Vs. Guru Ram Dass CGHS & Anr" wherein Hon'ble Financial Commissioner had remanded back the case to this office to pass a speaking and reasoned order after giving opportunity of hearing to the petitioner herein and after taking into consideration the law laid down by the Hon'ble high court.

The notices were issued to the parties, during the proceedings, the counsel for the Petitioner Sh. Rahul Kumar has submitted the written submissions on 02.04.2024 and argued the case in brief

**1. Brief history of the case**

i The petitioner became member of the Guru Ram Dass CGHS Ltd. society in 1999 vide membership no. 109 and she was issued share certificate dated 10.01.1999.

ii. That on 13.12.2000 her husband namely Devender Kumar Mittal also became member of the said society vide membership no. 161.

In pursuance of the directions of the Hon'ble Delhi High Court passed in Civil Writ Petition No. 10066/2004, a Case RC DST/2007/S/0001 was registered with CBI, STF, New Delhi Branch on 05.01.2007, against Smat. Arvinder Kohli President (A-1); Sh. Vipin Aggarwal, Secretary (A-2) and Sh. Parveen Kumar Jain, Vice President (A-3) of Guru Ram Das Cooperative Group Housing Society Ltd. (henceforth referred as Society) after due verification, u/s 120-B r/w 420, 468 and 471 IPC and the substantive offence thereof it is established that Sh. Devinder Mittal with Membership No. 161 and his wife Ms. Meeta Mittal with Membership No. 109 acquired a house No. C-3/72, measuring 270



*dh*

Sq. Mts. at Janak Puri New Delhi in the year 1996 and as such, both Sh. Devinder Mittal with Membership No 161 and his wife Ms. Meeta Mittal with Membership No. 109 were not eligible to continue as member of the Society after 1996.

iv. Thereafter a case was initiated on the basis of a self contained note dated 31.03.2009 received from Sh. V. K. Bindal, Supdt. of Police, CBI recommending cancellation of membership in Guru Ram Dass CGHS Ltd of Sh. Devender Mittal with membership no.161 and his wife Mrs. Meeta Mittal with membership no. 109.

V. Consequently on dated 26/07/2011, department had issued Show cause notice Under Rule 20(1) (c) (i) of DCS Rules 2007 to Meeta Mittal as to why her membership in Guru Ram Dass CGHS Ltd. Should not be ceased as she acquired disqualification under Rule 20.

vi. The respondent and the society were afforded an opportunity for personal hearing and to make their submissions along with documentary evidence in support of their contention on 23.08.2011 and on subsequent dates for hearing. During the hearing the respondent Smt. Meeta Mittal was represented by her counsel Sh. R.K. Gupta and the society was represented by Sh. Jain (Treasurer) and Sh. Vipin Aggarwal (Vice President).

vii. On dated 14/03/2017 then RCS ordered the case the operating part of order as follows

*I am of the considered view that as Sh. Devender Mittal and Smt. Meeta Mittal became members of Guru Ram Dass CGHS Ltd and another property bearing no. C-3/72 Janak Puri, New Delhi stands in their name which is not refuted by the respondents and which is violation of provisions of DCS Act and Rules. In view of these facts the membership of Smt. Meete Mittal in Guru Ram Dass CGHS Ltd is ceased with effect from 18.05 1978 when she became member of the society as she is disqualified from being a member of the society, as per the provisions of DCS Act and Rules as she already had a property bearing no. C-372 at Janak Puri New Delh measuring 270 Sq Mts in the year 1996, which is not refuted by the respondent. Further, the concerned section of the office is directed to take necessary action, if the name of the respondent has been forwarded for allotment of flat to DDA, intimate the concerned authorities for taking required necessary follow up action. A compliance report should be submitted to this office within 10 days.*

The said order was challenged by the Petitioner before the Honble Financial Commissioner by way of Revision Petition No. 113/2017 wherein vide order dated 29/08/2023, the Honble Financial Commissioner has remanded back the case to this office to pass a speaking and reasoned order after giving opportunity of hearing to the petitioner herein and after taking into consideration the law laid down by the Honble high court.

2. The Submissions of the Petitioner inter alia are summarised as under



- i. That appellant in her written argument has stated that she became member of Guru Ram Dass CGHS Ltd. in 1998 vide membership no. 109 and she was issued share certificate dated 10.01.1999. At the time of her enrolment, the appellant was not disqualified under the prevalent act and rules in as much as she did not own any residential property in Delhi, either in her own name, or in the name of her spouse or dependent children. Neither the husband, nor the dependent children of appellant were members of any cooperative housing society.
- ii. The appellant stated that on 13.12.2000, her husband Mr. Devender Kumar Mittal also became a member of Guru Ram Dass CGHS Ltd. vide membership no. 161.
- iii. That the appellant made substantial payments to the society to the tune of Rs. 18,907,43/- towards cost of flat out of her own funds. She made timely dues to society as per society's demands.
- iv. That the appellant herein submits that she never acquired or owned property no. C-3/72, Janak Puri, Delhi. Infact the said property was owned by her husband by way of Conveyance Deed dated 17.10.1996 . Since, the property was not in the name of the appellant, therefore the appellant herein was clearly not disqualified under Rule 20 (1)(c)(i) as she did not own the said property in her own name or in the name of her spouse. In any case, there was no such allegation in the Show Cause Notice that the appellant owned the said property in the name of her spouse.
- i) she further submitted that In the present case, neither of the two above mentioned situations exists. It is evident from Conveyance Deed dated 17.10.1996 that the property No. C-3/72, Janakpuri, Delhi is not in the name of appellant and therefore the appellant does not own the said property in her name. Further, the appellant does not own the said property No. C-3/72, Janakpuri, Delhi "Benami" in the name of her spouse. The appellant did not contribute anything towards the purchase of the said property. There was/is no such material/evidence from which it could be concluded that the appellant owned the said property, benami.
- In fact, there was no such allegation in the show cause notice that appellant owned the said property "benami" in the name of her spouse. Hence, the appellant was/is not disqualified at all under rule 20(1)(c)(i).
- vii) That the appellant was Income Tax Assessee and she had paid entire amount of Rs 18,90,743/- towards the cost of flat from her own funds and sources, and therefore, she did not incur any disqualification whatsoever. Appellant had already submitted Income Tax Assessment orders.



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viii) It is submitted that impugned show cause notice dated 26.07.2011 is contrary to the settled law and various judgment of Hon'ble Court of Delhi. In the said judgments, Hon'ble high Court had maintained that merely because the spouse of a member owns a property, would not automatically disqualify the member. Hon'ble High Court had repeatedly held in various judgments that a member may be disqualified only if it is established that he/she owns a residential property either in his own name, or in the name of the spouse/dependent children (benami). The Hon'ble High Court held that the Rules have to be interpreted strictly as per its language and unless it is established that the member owns another property benami, he would not be held disqualified. Some of the judgments passed by the Hon'ble High Court of Delhi and their relevant extracts are as below:-

a) Ashok Aggarwal v. RCS & Ors. [WP(C) No. 6154/2007]

it is settled law that merely because a spouse of a member purchased a flat or property would not make the member of the society disqualified unless it is proved that the property purchased by the spouse of the member is from the funds of the member."

b) Alimuddin v. RCS & Ors. [63 (1996) DLT 655 (DB)]

The view taken by this Court has been that to attract the applicability of Rule 25(1)(c)(i), the member of the Society must own a residential house or a plot of land for the construction of a house in his own or in the name of his spouse or a dependent child. The phrase "in the name of has been interpreted to mean the ownership must be of the member though it may stand Benami in the name of the wife or a child"

IX. That the impugned order is also illegal and contrary to the provisions of the law, particularly Rule 20(1)(C)(iii) of the DCS Rules, 2007. As per the said rule a member of a cooperative society is disqualified if his spouse or any of his dependent children is a member of any other housing society.

X. That it is worth mentioning here that the membership of the appellant was prior in time vide Membership No. 109. She became a member in 1998 and she was issued share certificate dated 10.01.1999 by society. Whereas, the membership of the husband of appellant i.e. Mr. Devender Kumar mittal was of 13.12.2000 (vide membership no. 161). Therefore, appellant. [11:39 AM, 8/19/2024] renvijay1816: was not disqualified under Rule 20(1)(c)(iii) of DCS Rules, 2007. If any disqualification under Rule 20(1)(c)(iii) is applicable, the same is applicable on the husband of the appellant i.e. Mr. Devender KumarMittal and not upon the appellant.

XI. It is also worth mentioning here that the husband of the appellant Mr. Devender Kumar Mittal has resigned from his membership on 21.09.2017 and his resignation has been duly accepted by Guru Ram Dass CGHS Ltd. on 21.09.2017



XII. Therefore, in view of the above submissions & judgments, the show cause notice dated 26.07.2011 is not sustainable and may kindly be set aside & quashed and it be held that the appellant is not disqualified to be the member of Guru Ram Dass CGHS Ltd.

3. The Submissions of the society are also as under-

That Mrs. Meeta Mittal is a member of the society since 1998 having Membership No. 109.

ii. The Society is of the opinion that she is not disqualified under Delhi State Co-operative Act, Rules or Bye-laws, as per the record of the society.

That Guru Ram Dass CGHS Ltd. has no objection if the name of Mrs. Meeta Mittal (Membership No. 109), is cleared and sent to DDA for

allotment of flat in her name. That it is also worth mentioning here that husband of Mrs. Meeta Mittal i.e. Sh. Devender Kumar Mittal has resigned from his Membership No. 161

iv. Upon careful examination of the records, submissions of the petitioner, and applicable legal provisions, it is evident that Smt. Meeta Mittal was admitted as a member of Guru Ram Dass CGHS Ltd. in 1998, subsequent to which it has come to light that her husband, Sh. Devender Kumar Mittal, had acquired a residential property bearing No. C-3/72, Janakpuri, New Delhi through a conveyance deed dated 17.10.1996 — i.e., prior to her membership. While the petitioner has contended that she is not disqualified under Rule 20(1)(c)(i) of the DCS Rules, 2007 on the ground that the said property is not in her name, it must be noted that the purpose of this rule is to prevent multiple allotments to a family unit through cooperative societies when a member or their immediate family already owns a residential property in Delhi.


Though the petitioner relies upon the judgments in Ashok Aggarwal v. RCS & Ors., [W.P.(C) No. 6154/2007] and Alimuddin v. RCS & Ors., [63 (1996) DLT 655 (DB)], these authorities also recognize that disqualification may apply if the spouse's property is held "benami" or the membership is sought with the intent to circumvent the cooperative housing policy. In the instant case, there exists a close nexus between the property ownership by the husband and the petitioner's membership, particularly as both have been members of the same society and have participated in a joint scheme that undermines the intent of the DCS Act and Rules.



In terms of Section 91 and Rule 20(1)(c)(i) of the Delhi Cooperative Societies Act, 2003 and Rules, 2007, a person is disqualified from membership of a housing society if they or their spouse or dependent children own residential property in Delhi. The petitioner has not refuted that her husband owned such property prior to her membership and continued to own it while she remained a member, and therefore, in the spirit and intent of the law, she stands disqualified.

Accordingly, the membership of Smt. Meeta Mittal (Membership No. 109) in Guru Ram Dass CGHS Ltd. is hereby ceased, as she stands disqualified under Rule 20(1)(c)(i) of the DCS Rules, 2007 read with the DCS Act, 2003. The concerned section is directed to take necessary follow-up action with DDA and ensure compliance with this order. A compliance report shall be submitted within 10 days.



  
Anil Kumar Singh (IAS)  
Registrar Cooperative Societies

Sent to:

1. Smt. Meera Mittal, W/o Sh. D.K Mittal, R/o C-3/72, Janak Puri New Delhi-110058
2. President/Secretary, Guru Ram Dass CGHS Ltd. Plot No. 3B, Sector -22, Dwarka, New Delhi-110077
3. OR Sec-31
4. IT. Computer Cell