

GOVT. OF NATIONAL CAPITAL TERRITORY DELHI
IN THE COURT OF THE REGISTRAR COOPERATIVE SOCIETIES
OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI-110001

F.No.47/GH/AR/ Sec-I/F.C/RCS/2023 | 6945-49

Dated: 27/26

ORDER

This order shall dispose of the proceedings initiated in compliance of order dated 23.09.2025 passed by the Hon'ble High Court. The operative portion of the said order is reproduced as under:

"That being so, since the Registrar under the statute viz. Delhi Cooperative Societies Act, 2003 has the power to exercise the jurisdiction under Section 75 of the Delhi Cooperative Societies Act 2003, we deem it appropriate to direct the said Authority to decide the claim of the petitioner, as is sought to be canvassed through the proceedings at page no. 37 expeditiously and in any case within a period of 6 months from today."

Background of the Case:

The property bearing no. S-355 Lower Ground Floor (Rear Side), Panchshila Park, New Delhi 110017 is totally admeasuring 112 Sq. Meters having status of Residential and further the Appellant also acquired 5% share in the total plot of land which is admeasuring 500 Sq. Yds.

The property bearing no. S-355 Lower Ground Floor (Rear Side), Panchshila park, New Delhi 110017 was purchased by the Appellant from the previous owner M/s MAC Associates, a partnership Firm having its office at H-30(LGF), Kailash colony, New Delhi through its partner Mr. Upjit Singh Mac S/o Sh. Manohar Singh Mac R/o F-7 Hauz Khas Enclave, New Delhi 110016 via a duly registered sale deed executed at New Delhi dated 25.04.2022 after payment of sale consideration amount and using that property as office since then.

The appellant in the last week of April, 2024, applied for the membership in the respondent society namely PANCHSHILA COOPERATIVE HOUSE BUILDING SOCIETY LTD. along with a copy of the Demand Draft of the application amount of Rs. 5,110/-. Thereafter, in the first week of June, 2024 a letter dated 31.05.2024, was received from the society, stated that the application for the membership made by the Appellant was not approved.

That a perusal of the letter dated 31.05.2024 shows that the rejection of the membership has been done on the basis of a resolution no. 6495/2 and the decision of the managing committee in its meeting on 14.05.2024.

The appellant has filed the present appeal on the grounds that his membership application has not been approved by the respondent society. It is submitted that the decision taken by the respondent is arbitrary, biased, and has been passed without following due procedure of law, thereby being contrary to the principles of natural justice. The appellant further contends that the decision of the respondent is based upon the provisions of Section 75 of the Act; however, the respondent failed to appreciate that the appellant holds 5% rights in the entire plot of land, which entitles him to become a member of the society. It is further stated that the proviso to Section 75 of the Act clearly provides that in cases where floors have been constructed, the number of members may exceed the number of plots allotted, and therefore, the appellant is eligible for membership of the society. The appellant further submits that he is a joint owner of



the plot and is entitled to membership not only on the basis of ownership of a portion of the building but also by virtue of being a joint owner of the entire plot. It is also contended that the appellant does not fall under any category of persons who are disqualified under the Act from becoming a member of the society. The appellant has further reserved his right to raise any other or additional grounds at the time of hearing and arguments.

Reply of respondent society

1. That the Respondent society submits that there has been no violation of any kind as alleged by the Appellant in the Appeal and the Appellant has failed to even remotely establish the same. It is submitted that the Respondent is covered in the definition of cooperative Housing Society as per the definition provided under Section 75(4) of The Delhi Co-Operative Societies Act, 2003.
2. It is submitted that in the scheme of the Act and the rules framed thereunder categorically shows that membership of a cooperative Housing Society can only be granted to person who is owner of a dwelling unit. In this regard, reference may be had to Section 75 of the Act which limits the membership of a Co-operative House Building Society to an individual who has ownership over a dwelling unit:

"Section 74 (f)-dwelling unit includes a house, flat and apartment for the purpose of dwelling"

"Section 75 Limit on Membership A co-operative housing society shall not admit to its membership persons exceeding the number of dwelling units or plots as the case may be, available for allotment in that co-operative housing society.

Provided that a cooperative house building society may admit to its membership more than the plot allotted in case the plot owner has constructed and sold floors, by charging transfer fee of five thousand rupees and share money and admission fee as per provisions of the by-laws of the society and in that case the committee shall grant membership within a period of thirty days after the submission of application for grant of membership by such applicant and in case of refusal by the committee, the applicant may appeal to the Registrar within thirty days of the refusal by the committee and the decision of the Registrar in such appeal shall be final."

3. Appellant's claim is wholly untenable as the Appellant is not the owner of a dwelling unit as defined under Section 74(f) R/w Section 75 of the Act. The property over which the Appellant claims to have ownership rights is a basement, not a residential floor, and is being used for office/commercial purposes. Membership in a co-operative housing society is restricted to owners of residential dwelling units as per the scheme of Section 75 of the Act.
4. Section 91 of the Act deals with regularization of occupancy rights and its second proviso categorically states that "no purchaser shall be entitled for more than one membership in a housing society." This reinforces the legislative intent that there should be one-to-one correspondence between dwelling units and memberships. The subject property has four dwelling units for which four memberships can be granted. If the Appellant is granted membership for the basement, it would result in five memberships for a plot having only four dwelling units, which is contrary to the statutory scheme and violates both Section 75 and Section 91 of the Act.
5. As per Master Plan of Delhi and the Building Bye-Laws does not contemplate the basement/lower ground floor as an independent dwelling unit. The basement is treated as



ancillary space meant for non-residential purposes. Therefore, if the Appellant is granted membership on account of having ownership in the basement, it would be contrary to the above provisions.

6. The Appellant's contention that he is entitled to membership because he is a "joint owner" with 5% share is untenable. Membership is granted on the basis of ownership of a dwelling unit, not merely on fractional share in land. The remaining 95% is owned by owners of Actual residential floors/dwelling units. If the Appellant's contention is accepted, it would lead to absurd consequences where anyone owning even 1% share would claim membership, making Section 75 of the Act redundant.
7. At the foremost, it is the respectful submission of the Society that while the Appellant has purchased the property bearing No. S-355, Lower Ground Floor (Rear Side), Panchshila Park, New Delhi-110017 vide registered Sale Deed dated 25.04.2022, the said property is a basement/lower ground floor which is admittedly being used as an office and not for residential purposes. The Sale Deed itself explicitly mentions that the property was purchased "after payment of sale consideration amount and using that property as office since then," which unequivocally demonstrates its non-residential use.
8. It is further submitted that the acquisition of 5% undivided share in the land does not qualify the Appellant for membership of the Respondent Society. Membership is governed by specific statutory provisions which mandate ownership of a "dwelling unit" and not merely a fractional share in the land. The Appellant has misconstrued and misapplied the provisions of the Act to suit his convenience.
9. It is categorically submitted that the rejection was not simple on the ground that "the property is a basement," but was based on multiple cogent legal grounds including the reason that the property is not a residential dwelling unit. Section 75 of the Act provides that membership is limited to the number of dwelling units and a plain reading of the scheme of the Act makes it clear that membership is inextricably linked to ownership of a "dwelling unit."
10. The Appellant does not own a "dwelling unit" but owns only a basement/lower ground floor with 5% undivided share in the plot. The term "dwelling unit" as defined under Section 74(f) refers to an independent residential unit capable of separate occupation for residential purposes. A basement/lower ground floor, admittedly used as an office, does not constitute a "dwelling unit." Furthermore, 5% undivided share does not make the Appellant an "owner of a dwelling unit." If the Appellant's interpretation is accepted, anyone owning even a minuscule fractional share would be entitled to membership, defeating the object of Section 75 and rendering the statutory scheme meaningless and unworkable.
11. It would be relevant to mention herein that the Managing Committee followed complete due process by examining the application, seeking legal opinion, deliberating in its meeting, passing a resolution, and informing the Appellant about the rejection along with his right to appeal. There has been no violation of any principle of natural justice.
12. It is further necessary to mention that Appellant's reliance on Section 75 of the DCS Act 2003 and his contention that 5% share entitles him to membership is wholly misconceived and legally untenable. Section 75 of the Act provides that membership is limited to the number of dwelling units available in the society. A plain reading of the scheme of the Act makes it clear that membership is inextricably linked to ownership of a "dwelling unit." The Appellant does not own a "dwelling unit" but owns only a basement/lower ground



floor with 5% undivided share in the plot. The term "dwelling unit" as defined under Section 74(f) refers to an independent residential unit capable of separate occupation for residential purposes. A basement/lower ground floor, admittedly used as an office, does not constitute a "dwelling unit." Furthermore, 5% undivided share does not make the Appellant an "owner of a dwelling unit."

13. It is submitted that the appellant is not entitled to membership under Section 75 of the Delhi Co-operative Societies Act, 2003. The proviso to Section 75 contemplates grant of membership to purchasers of residential floors constituting separate dwelling units and cannot be extended to basements or other non-residential spaces. The appellant admittedly owns a basement/lower ground floor along with an undivided 5% share in the land, which by itself does not confer a right to membership. Membership is linked to ownership of a dwelling unit and not merely to a fractional interest in the land. Mere absence of any statutory disqualification does not automatically entitle a person to membership unless the eligibility requirements prescribed under Section 75 are duly satisfied.

REJOINDER BY THE APPELLANT

1. It is denied that the contents of the appeal are false, frivolous, concocted. The Respondent with malafide intention is making false submissions without any iota of truth. They are asked for the strict proof of the assertions made herein.
2. It is stated that the Respondent Society has deliberately violated the provisions of the Act and with malafide intention denied the legitimate claim of membership of the Appellant, due to which filing of the present appeal has become necessitated.
3. As far as it related to the reproduction of Section 75(4) of the Act is concerned the same is a matter of record and needs no reply.
4. It is denied that the membership of the Cooperative Housing society can only be granted to the person who is the owner of a dwelling unit. Further, reproduction of Section 75 of the Act is matter of record. However, it is pertinent to mention here that the Respondent is reading the provision wrongly and with malafide intention to deny the membership of the Appellant. It is stated that Section 75 of the Act with its proviso is relevant to be read and the same is reproduced as under:

"75. A co-operative housing society shall not admit to its membership persons exceeding the number of dwelling units or plots as the case may be, available for allotment in that co-operative housing society.

** Provided that a cooperative house building society may admit to its membership more than the plots allotted in case the plot owner has constructed and sold floors, by charging transfer fee of five thousand rupees and share money and admission fee as per provisions of the by-laws of the society and in that case the committee shall grant membership within a period of thirty days after the submission of application for grant of membership by such applicant and in case of refusal by the committee, the applicant may appeal to the Registrar within thirty days of the refusal by the committee and the decision of the Registrar in such appeal shall be final."*

5. It is stated that the Appellant is a bonafide purchaser who has purchased the basement portion through validly executed sale deed alongwith proportionate land rights, which



grant the appellant interest in land and further makes him eligible to be a member of the society.

6. It is submitted that there is no violation of the Master Plan for Delhi, 2021 or the applicable Building Bye-Laws. As per Regulation 4.4.3(A) of MPD-2021, plots measuring more than 250 sq. mtrs. and less than 750 sq. mtrs. are permitted to have up to six dwelling units. The respondent itself admits that only four dwelling units exist on the subject plot. Therefore, grant of membership to the appellant would neither exceed the permissible number of dwelling units nor violate the statutory scheme governing membership of the Society.
7. It is submitted that the appellant derives his rights not only from ownership of the basement portion but also from the undivided 5% share in the land appurtenant thereto. Such ownership carries with it all rights and benefits attached to the property, including the right to seek membership of the Society. The respondent's contention that ownership of an undivided share in land does not confer any membership rights is unsupported by any provision of the Act, Rules or Bye-laws. Having acquired a valid and transferable interest in the property along with proportionate land rights, the appellant is entitled to enjoy all benefits available to similarly placed property owners, including membership of the respondent Society.
8. It is stated that the Respondent has no basis to reject the membership of the appellant, however to satisfy their high headedness they have rejected the membership of the appellant, which cannot be permitted.

It is submitted that the respondent has wrongly treated the use of the premises as an Advocate's office as a ground for denying membership. The use of a residential property for professional activities of an advocate does not amount to commercial or non-residential use. In *B.K. Sood v. North Delhi Municipal Corporation*, the Hon'ble Delhi High Court held that treating the professional activities of an advocate as a commercial activity is arbitrary and unsustainable in law. Therefore, the appellant's use of the premises as an Advocate's office cannot be relied upon to deny his lawful claim for membership of the Society.

9. It is denied that having 5% rights in the plot will not make the appellant eligible to be member of the Respondent Society. It is specifically denied that the membership is governed specifically with an ownership of dwelling unit and not merely a fractional share in the land. It is clear that the Respondent is acting clearly in violation of the provisions of Act and is acting as per its own whims and fancies. It is stated that proviso to Section 75 of the Act clearly states that after construction of the floors, floor owners are entitled to be member of the society, which is also applicable in the case of the appellant. The Respondent is making baseless assertions just to reject rightful demand of the appellant.
10. It is stated that the alleged decision of Respondent was clearly in violation of the Act, since the Respondent was under an obligation to decide the application of the appellant within 30 days as per section 75 of the Act, which they failed to do. Further as per the contention of the Respondent, the decision was based on legal opinion, however no such opinion has been filed on record, which itself proves that the alleged decision has been taken with malafide intention, which is not correct.
11. It is denied that the appellant does not own an independent and identifiable unit. The appellant is a bona fide purchaser under a valid registered Sale Deed, which has not been disputed by the respondent. The property carries an undivided 5% share in the land and is therefore accompanied by all rights appurtenant thereto, including the right to seek



membership of the Society. The respondent has also not disputed that the premises are being used as an Advocate's office, which is a permissible professional use and does not constitute commercial activity. The selective denial of membership to the appellant, while not objecting to similar uses by other property owners, is arbitrary, discriminatory and contrary to the spirit and object of the Delhi Co-operative Societies Act, 2003.

12. It is stated that the decision of the Respondent is full of malafides. It is interesting to note that the Respondent is stating that decision was taken in the meeting dated 14.05.2024, however the decision was already taken on 30.04.2024, which is the meeting date and as per the documents filed by the Respondent. All this proves that the Respondent is making false submissions without any iota of truth.
13. It is denied that the appellant does not own an independent and identifiable unit. The appellant is a bona fide purchaser under a valid registered Sale Deed, which has not been disputed by the respondent. The property carries an undivided 5% share in the land and the appellant is therefore entitled to all rights and benefits appurtenant thereto, including the right to seek membership of the Society. The respondent also does not dispute that the premises are being used as an Advocate's office, which is a permissible professional use and does not constitute commercial activity. The respondent has failed to show that similarly situated members are denied membership on account of the use of their premises. The selective denial of membership to the appellant, despite there being no statutory disqualification or prohibition under the Act, Rules or Bye-laws, is arbitrary, discriminatory and contrary to the object and spirit of the Delhi Co-operative Societies Act, 2003
14. It is submitted that the respondent's contention that the appellant is ineligible for membership for not owning a dwelling unit is contrary to the provisions of Section 75 of the Delhi Co-operative Societies Act, 2003. The proviso to Section 75 specifically contemplates admission of purchasers of floors where a plot owner has constructed and sold such floors, and does not restrict membership only to owners of dwelling units as alleged by the respondent. The appellant is a bona fide purchaser of the basement portion under a valid registered Sale Deed along with proportionate undivided rights in the land and is therefore entitled to seek membership of the Society. Further, there is no violation of the Master Plan for Delhi, 2021 or the applicable Building Bye-Laws. As per Regulation 4.4.3(A) of MPD-2021, a plot measuring between 250 sq. metres and 750 sq. metres is permitted to have up to six dwelling units, whereas the respondent admits that only four dwelling units presently exist on the plot. Therefore, grant of membership to the appellant would neither exceed the permissible limit nor violate any statutory provision. The respondent's interpretation of Section 75 is thus misconceived and unsustainable in law.
15. It is stated that from the own admission of the Respondent, the appellant is not disqualified to be a member of the Society under the Act, however because of Respondent's own whims and fancies, they have created special rules in violation of law, to deny the membership which cannot be permitted. It is stated that the appellant is entitled to be become member of the society and the contention of the Respondent is not tenable in law.

Findings and Observations

I have carefully considered the documents placed on record, written submissions of both parties and the provisions of the Delhi Co-operative Societies Act, 2003.



The central issue involved in the present matter is whether the appellant, being the purchaser of the lower ground floor/basement portion together with proportionate undivided rights in the land, is entitled to membership of the respondent Society.

Section 75 of the Delhi Co-operative Societies Act, 2003 provides that a co-operative housing society shall not admit to its membership persons exceeding the number of dwelling units or plots available for allotment. However, the proviso appended to Section 75 specifically provides that a co-operative house building society may admit to its membership more persons than the number of plots allotted where the plot owner has constructed and sold floors.

The legislative intent behind insertion of the proviso is to recognize the realities of floor-wise ownership prevalent in Delhi and to ensure that bona fide purchasers of separate portions/floors are not deprived of membership merely because originally there existed only one plot.

The respondent Society has argued that the appellant is not the owner of a dwelling unit. However, a plain reading of the proviso to Section 75 shows that the legislature has consciously used the expression "floors" and not "dwelling units" alone. The proviso expands the category of persons entitled to membership beyond the original plot holder and extends such entitlement to purchasers of separately transferred portions/floors.

The appellant has placed on record a registered Sale Deed establishing his ownership rights over the lower ground floor portion along with 5% undivided ownership rights in the land. The respondent Society has neither challenged the validity of the Sale Deed nor disputed the appellant's ownership rights in the property.

The Society has also failed to produce any provision of the Act, Rules or Bye-laws expressly prohibiting grant of membership to a bona fide purchaser of a basement/lower ground floor having proportionate ownership rights in the land.

The contention of the Society that the appellant is using the premises as an advocate's office also does not advance its case. The issue before this Authority is not the use of the premises but the entitlement to membership arising from ownership rights. Moreover, it is a matter of judicial notice that professional activities of advocates are permissible in residential premises subject to applicable regulations and cannot automatically convert ownership rights into disqualification for membership.

The argument that grant of membership would exceed the permissible number of memberships is also not convincing. The appellant has pointed out that the plot measures approximately 500 square yards and that the applicable planning regulations permit multiple dwelling units. More importantly, the proviso to Section 75 itself contemplates admission of more than one member in respect of a plot where floors have been constructed and sold.

The respondent Society has not demonstrated that admission of the appellant would violate any specific statutory ceiling under the Act. On the contrary, denial of membership to a bona fide purchaser who possesses ownership rights in a distinct portion of the property and proportionate rights in the land would defeat the very object of the proviso to Section 75.

The right to membership in a co-operative house building society is an important incident of ownership. Such right cannot be denied on grounds not contemplated under the Act. The respondent Society has failed to establish any statutory disqualification applicable to the appellant. It is also noted that the appellant does not suffer from any of the disqualifications prescribed under the Delhi Co-operative Societies Act, 2003. The refusal of membership is therefore based upon an interpretation of Section 75 which is unduly restrictive and contrary to the legislative intent underlying the proviso.



*Accordingly, the undersigned is of the considered view that the appellant, being a bona fide purchaser of a separately identifiable portion of the property together with proportionate undivided ownership rights in the land, is entitled to membership of the respondent Society. The decision of the Managing Committee of Panchshila Cooperative House Building Society Ltd., communicated vide letter dated 31.05.2024, whereby the appellant's application for membership was rejected, is hereby set aside.

The respondent Society is directed to grant membership to the appellant, upon completion of the requisite formalities and payment of admission fee, share money and other applicable charges in accordance with the provisions of the Delhi Co-operative Societies Act, 2003, the Rules framed thereunder and the Bye-laws of the Society.

The Society shall complete all consequential formalities, including issuance of membership certificate and updation of its membership records, within a period of thirty (30) days from the date of receipt of this order and shall submit a compliance report to this office within fifteen (15) days thereafter.

The appeal stands disposed of accordingly.


Krishna Kumar Singh (IAS)
Registrar Cooperative Societies

Sent to:

1. Sh. Vikas Tomar, S/o Sh. Raj Kumar, R/o S-355, LGF, Rightside, Panchshila Park, Delhi-110017.
2. The President/Secretary, Panchshila Coop. House Building Society Ltd., Panchshila Club Building, Panchshila Park, Delhi-110017.
3. DRCS, Section -6, O/o RCS
4. DRCS (IT), O/o RCS
5. Guard File

