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/RCS/ARCS-02/2023/3364 - 89 Dated: 28/10/2

Order

This order shall dispose of the proceedings initiated vide impleadment dated 23.09.2025, by the Society under Sections 87 and 41 of the Delhi Cooperative Societies Act, 2003, seeking cessation of the memberships of Sh. R.N. Sharma and his wife, Smt. Sushma Sharma, in Canara Group Co-operative Group Housing Society Ltd., Plot No. 16, Sector-13, Rohini, New Delhi–110085.

Brief facts of the case

A petition was received from Sh. Rajeev Parashar, Member and owner of Flat No. 90, Canara Apartment, Sector-13, Rohini, Delhi-110085, under Section 87 of the Act against certain members of the Society. During the pendency of the proceedings, the learned Advocate appearing on behalf of the Society and the respondents filed an application dated 23.09.2025 under Order I Rule 10 of the Code of Civil Procedure, seeking impleadment of Sh. R.N. Sharma and Smt. Sushma Sharma as parties to the present proceedings on the same ground. The said application was allowed and Sh. R.N. Sharma and Smt. Sushma Sharma were accordingly impleaded as parties.

The petitioner society has stated that Sh. R.N. Sharma is a member of the Society in respect of Flat No. 101, bearing Membership No. 197, whereas his wife, Smt. Sushma Sharma, is also a member of the same Society in respect of Flat No. 99, bearing Membership No. 299. It has been alleged that the aforesaid arrangement amounts to dual membership in the Society and, accordingly, appropriate action has been sought against Sh. R.N. Sharma and Smt. Sushma Sharma under Sections 41 and 87 of the Act read with the applicable provisions of the Delhi Cooperative Societies Rules, 2007.

SUBMISSIONS OF THE RESPONDENTS

1. The answering respondents submit that they were not parties to the original petition filed by the petitioner and, therefore, had no occasion to participate in the proceedings at the initial stage.
2. It is submitted that the answering respondents were impleaded on the application moved by Respondent No.1 through its President/Secretary under Order I Rule 10 of the Code of Civil Procedure. According to the answering respondents, such impleadment is misconceived and has rendered their impleadment application infructuous. It is further submitted that matters relating to cooperative societies are governed by the Delhi Cooperative Societies Act, 2003 and the Rules framed

thereunder and are required to be dealt with in accordance with the statutory provisions governing cooperative societies.

3. It is contended that the proceedings before the Registrar of Cooperative Societies are governed primarily by the Delhi Cooperative Societies Act, 2003 and the Rules framed thereunder and that the provisions of the Code of Civil Procedure do not apply as a matter of right. The principles of the CPC, if at all invoked, can only be applied sparingly and within the limits of the statutory jurisdiction conferred upon the Registrar. It is submitted that the jurisdictional prerequisites for invoking Order I Rule 10 CPC are absent in the present case.

4. It is further submitted that mere apprehension, remote interest or speculative future consequences do not constitute sufficient grounds for impleadment. According to the answering respondents, the impleadment has been sought only with a view to complicate the adjudication of the matter and is therefore mala fide. Accordingly, it has been prayed that the impleadment of the answering respondents be dismissed with costs, without prejudice to their rights and contentions in the main proceedings.

5. The answering respondents have further submitted that the Registrar, being a quasi-judicial authority, cannot assume the plenary powers of a Civil Court under the Code of Civil Procedure. It is contended that the Delhi Cooperative Societies Act, 2003 and the Delhi Cooperative Societies Rules, 2007 do not confer unrestricted powers equivalent to those available to a Civil Court under Order I Rule 10 CPC and, therefore, the Registrar could not have exercised such powers without satisfying the requisite jurisdictional conditions.

6. It is further submitted that the powers of the Registrar under the Delhi Cooperative Societies Act, 2003 and the Rules framed thereunder are statutory and limited in nature and that the provisions of the Code of Civil Procedure cannot be applied indiscriminately to such proceedings. It is stated that during the proceedings initiated on 08.08.2024, Respondent No.1, through its President/Secretary, was directed to produce the relevant records relating to the membership of each and every flat owner in the Society.

7. The answering respondents submit that society, in its reply dated 16.12.2024, has not approached the proceedings with clean hands and has adopted a policy of pick and choose by proceeding against only a few members of the Society. It is alleged that the answering respondents have been singled out despite the existence of several other instances in the Society where both husband and wife are stated to be holding membership.

8. It is further submitted that, in terms of Section 90 of the Delhi Cooperative Societies Act, 2003, the Society is required to maintain proper records/registers containing the particulars of its members and the flats held by them. According to the answering respondents, non-compliance with the direction to produce the relevant records gives rise to suspicion regarding the maintenance of membership records and also raises an apprehension of benami transactions within the Society. It is further alleged that failure to record membership within a reasonable period after purchase of a flat may also result in deprivation of legitimate government dues payable in connection with the grant of membership.

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9. Sh. R.N. Sharma has submitted that he is the original allottee of Flat No. 101 in Canara CGHS Ltd., Sector-13, Rohini, Delhi. It is stated that he had availed a staff housing loan against the said flat from Canara Bank, Chandni Chowk Branch, Delhi-110006, and that the entire loan amount along with interest was duly repaid by him through equated monthly installments. A No-Dues Certificate dated 16.07.2014 issued by the concerned branch has been relied upon and produced.

10. Smt. Sushma Sharma has submitted that she was not the original allottee of Flat No. 99 in Canara CGHS Ltd., Sector-13, Rohini, Delhi-110085. She has stated that she purchased the said flat from the open market for a consideration of ₹18,00,000/- from her own sources of funds and after availing a staff housing loan of ₹13.38 lakh from the State Bank of Mysore, Pitampura Branch, Delhi, now merged with the State Bank of India. She has further stated that the entire housing loan, along with interest, was repaid by her through equated monthly installments and that a No-Dues Certificate dated 16.06.2021 issued by SBI, Uttari Pitampura Branch, Delhi.

11. Smt. Sushma Sharma has further submitted that despite being a member of the Society, she was not permitted to cast her vote in the election of the Management Committee held on 16.04.2023.

12. The answering respondents have relied upon the judgments of the Hon'ble High Court of Delhi and submitted that there is no absolute prohibition against a husband and wife holding separate memberships in a cooperative housing society where they have independent sources of income and the respective properties have been acquired from their own independent financial resources.

13. In support of the above contention, reliance has been placed upon the judgment of the Hon'ble High Court of Delhi dated 06.08.2012 in W.P.(C) No.2531/2012, titled *Ratna Mohla v. Registrar Cooperative Societies*, wherein reliance was also placed upon the judgment of the Division Bench in *Alimuddin v. Registrar Cooperative Societies*, 63 (1996) DLT 665, as well as the judgment in W.P.(C) No.794/2012, *Kalu Ram v. The Financial Commissioner & Ors.*, decided on 08.02.2012. The answering respondents rely upon the said judgments to contend that there is no prohibition upon a person becoming a member of a cooperative housing society and owning a flat independently where the funds for acquisition of the property have come from his or her own independent sources and the case does not involve one spouse providing the funds for obtaining membership or allotment in favour of the other spouse.

FINDINGS AND OBSERVATIONS

I have considered the Impleadment application, the replies/submissions of the respondent society and the documents placed on record. The principal issue for determination is whether the mere fact that Sh. R.N. Sharma and his wife, Smt. Sushma Sharma, are members of the same Society in respect of two separate flats amounts to prohibited dual membership warranting cessation of their memberships under Sections 41 and 87 of the Delhi Cooperative Societies Act, 2003.

It is not disputed that Sh. R.N. Sharma is a member in respect of Flat No. 101, Membership No. 197, and Smt. Sushma Sharma is a member in respect of Flat No. 99, Membership No. 299. However, the mere fact that the two members are husband and wife, by itself, does not establish that the two memberships constitute prohibited dual membership. The legality of

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the respective memberships has to be examined with reference to the Act, Rules, registered bye-laws and the facts relating to acquisition of the respective flats.

In the present case, Sh. R.N. Sharma has stated that he is the original allottee of Flat No. 101 and has placed on record the No-Dues Certificate dated 16.07.2014 issued by Canara Bank in respect of the housing loan availed by him. Similarly, Smt. Sushma Sharma has stated that she purchased Flat No. 99 from the open market and, in support of her claim of independent financial arrangements for the acquisition of the said flat, has placed on record the loan sanction letter dated 21.05.2008 along with the complete terms and conditions of sanction of the staff housing loan of ₹13.38 lakh, as well as the No-Dues Certificate dated 16.06.2021 issued by the State Bank of India. The aforesaid documents have been considered while examining the financial arrangements of the two respondents. However, no cogent documentary material has been placed on record to establish that either spouse financed the acquisition of the flat or membership of the other, or that either of the memberships was held benami. Accordingly, on the basis of the material available on record, the allegation of prohibited dual membership or benami holding has not been substantiated.

The respondents have relied upon the judgment of the Hon'ble High Court of Delhi in *Ratna Mohla v. Registrar Cooperative Societies*, W.P.(C) No.2531/2012 decided on 06.08.2012, along with the judgments referred to therein, to contend that there is no absolute prohibition against husband and wife holding separate memberships where the respective properties have been acquired from independent financial resources. The said principle is relevant to the issue under consideration.

The allegation of benami transaction or illegal membership cannot be sustained merely on suspicion, non-production of records or on account of the matrimonial relationship between the members. Such a finding requires cogent supporting material. In the present case, no sufficient evidence has been produced by the society to establish any specific violation of the Act, Rules or registered bye-laws warranting cessation of the memberships.

The submission regarding non-grant of voting rights to Smt. Sushma Sharma in the election held on 16.04.2023 is also not determinative of the legality of her membership and constitutes a separate issue.

Accordingly, on the material available on record, the allegation of prohibited dual membership against Sh. R.N. Sharma and Smt. Sushma Sharma has not been established and the statutory grounds for cessation of their respective memberships are not made out.

CONCLUSION

In view of the foregoing discussion and the material available on record, the allegation that the memberships of Sh. R.N. Sharma, Membership No. 197 in respect of Flat No. 101, and Smt. Sushma Sharma, Membership No. 299 in respect of Flat No. 99, constitute prohibited dual membership has not been established. No cogent material has been placed on record to show that either membership was obtained in violation of the DCS Act, 2003, the DCS Rules, 2007 or the registered bye-laws, or that either spouse holds the membership/property for and on behalf of the other. Accordingly, the proceedings initiated

vide Show Cause Notice dated 08.08.2024 under Sections 41 and 87 of the DCS Act, 2003 are hereby disposed of without ordering cessation of their respective memberships.

The Society/Administrator is directed to ensure that the membership records relating to Flat Nos. 101 and 99 and Membership Nos. 197 and 299 are duly maintained and updated in accordance with law and that all future admissions, transfers and changes in membership are made strictly in accordance with the DCS Act, 2003, the DCS Rules, 2007 and the registered bye-laws. The concerned DRCS shall follow up and ensure compliance.

The proceedings stand disposed of accordingly.

Krishna Kumar Singh (IAS)
Registrar Cooperative Societies

Sent To

1. The President/Secretary/Administrator, Canara CGHS Ltd., Plot No. 16, Sector 13, Rohini, New Delhi-110085.
2. Sushma Sharma, Flat No. 99, Canara CGHS Ltd., Plot No. 16, Sector 13, Rohini, New Delhi-110085.
3. R.N Sharma, Flat No. 101, Canara CGHS Ltd., Plot No. 16, Sector 13, Rohini, New Delhi-110085
4. DRCS (IT), O/o RCS with request to upload the order
5. DRCS, Section -2, O/o RCS
6. Guard File