

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/1973/3334 -38

Dated: 28/10/26

Order

This order disposes of the appeal filed under Rule 30(7) of the Delhi Cooperative Societies Rules, 2007 by Sh. Rohit Kumar Modi, Advocate, on behalf of Sh. Ramesh Kumar, claiming to be the legal heir/successor-in-interest of Late Sh. Bhagwan Das, a member of Jhulelal Sindhu Nagar Cooperative Group Housing Society Ltd., in respect of Membership No. 125 and Flat No. M-8/D-10 situated in the said Society.

Brief Facts of the Case

The appellant has filed the present appeal under Rule 30(7) of the Delhi Cooperative Societies Rules, 2007 seeking transfer of the shares and interest of Late Sh. Bhagwan Das in his favour on the ground that the Managing Committee of the Society has failed to take any decision on his application within the statutory period prescribed under the Rules.

Late Sh. Bhagwan Das was a member of Jhulelal Sindhu Nagar Cooperative Group Housing Society Ltd. bearing Membership No. 125 and was allotted Flat No. M-8/D-10 in the Society.

During his lifetime, he executed a registered Will dated 04.04.2019 in favour of Sh. Ramesh Kumar, which was registered before the Sub-Registrar-VI A, Delhi vide Registration No. 1404, Book No. III, Volume No. 609, Pages 56 to 59.

Late Sh. Bhagwan Das expired on 12.02.2024. Thereafter, Sh. Ramesh Kumar submitted an application dated 01.05.2025 before the respondent Society seeking transfer of the shares, membership and interest of the deceased member in his favour on the strength of the aforesaid registered Will.

It is the case of the appellant that despite the expiry of the statutory period of thirty days from the date of submission of the said application, the respondent Society neither communicated any decision nor passed any order accepting or rejecting the request for transfer. Aggrieved by the inaction of the respondent Society, the appellant has preferred the present appeal under Rule 30(7) of the Delhi Cooperative Societies Rules, 2007.

In this regard, please see Rule 30 (7) of DCS Rules, 2007 is stated that:-

"If the committee refuses to transfer the share or interest of the deceased member to his nominee or his successor-in-interest, or fails to take a decision on the application of such nominee or the successor-in-interest as the case may be within thirty days from a nominee or any person claiming to be a successor of a deceased member, may file an appeal within thirty days of such refusal, the Registrar shall pass such order as he may deem fit. On such condition the Registrar may impose, after hearing the co-operative Society and the applicant or any



other persons interested. The order made by the Registrar shall be final and binding on all concerned."

REPLY/WRITTEN STATEMENT ON BEHALF OF RESPONDENT/JHULELAL SINDHU NAGAR COOPERATIVE GROUP HOUSING SOCIETY LTD.

1. Preliminary Objection of the present Claim Petition is wholly misconceived, frivolous, vexatious and constitutes a gross abuse of the process of law. The Claimant has deliberately suppressed material facts and circumstances with a view to obtaining relief to which he is otherwise not entitled. The petition is, therefore, liable to be dismissed with costs.
2. The Claim Petition is not maintainable either in law or on facts. The Claimant is seeking to evade the lawful liabilities and dues payable in respect of the subject flat and has invoked the jurisdiction of this Hon'ble Court solely to avoid discharging such liabilities. The present proceedings are nothing but a misuse of the judicial process.
3. The Claim Petition is bad for non-joinder of a necessary party. The pleadings in the petition contain various allegations concerning the **Delhi Cooperative Housing Finance Corporation Ltd. (DCHFC)**, yet the Claimant has intentionally failed to implead DCHFC as a respondent. The reliefs claimed by the Claimant directly affect the rights and liabilities of DCHFC and cannot be effectively adjudicated in its absence. Consequently, the petition deserves to be dismissed on this ground alone.
4. The present Claim Petition, instituted in June, 2025, is hopelessly barred by limitation. The original allottee as well as the Claimant were fully aware of the outstanding dues payable to DCHFC in respect of the subject flat. Despite such knowledge, neither the validity of the dues nor the resolutions passed in the Annual General Meeting dated 06.11.2011 regarding the Individualization Scheme were challenged within the prescribed period of limitation. The belated challenge after more than thirteen years is legally unsustainable and liable to be rejected.
5. The contents of the petition regarding allotment of Flat No. **M-8/D-10** in favour of Late Shri Bhagwan Das, son of Late Shri Vishan Das, are matters of record and, therefore, require no specific reply.
6. The contents of the corresponding paragraph of the petition are denied for want of knowledge. The Claimant is put to strict proof of the averments made therein.
7. The averments contained in the corresponding paragraph of the petition are misleading, incorrect and only partly true. It is submitted that the application submitted by the Claimant for transfer of membership was duly considered and replied to by the Respondent Society. The Claimant was called upon to furnish the requisite documents, undertakings, No Objection Certificates and other formalities necessary for processing the transfer. The Society also specifically informed the Claimant regarding the outstanding dues payable to DCHFC, which were required to be cleared before any request for transfer of membership could be considered.
8. It is further submitted that the decision taken by the General Body in respect of the Individualization Scheme was well within the knowledge of both the original allottee and the present Claimant. Despite repeated communications and demands issued by



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the Society from time to time, the Claimant failed to clear the outstanding dues and instead sought transfer of membership without fulfilling the mandatory conditions. The allegations made in the petition are, therefore, false, incorrect and emphatically denied.

9. It is submitted that the Individualization Scheme was duly approved and adopted by the Respondent Society in its Annual General Meeting held on **06.11.2011**. The said meeting was convened in accordance with law, and the resolutions passed therein are valid, legal and binding upon all members of the Society. The said resolutions have never been set aside, modified or declared invalid by any competent court or statutory authority and, therefore, continue to remain operative and binding. The Claimant cannot seek to bypass or indirectly challenge the said resolutions through the present proceedings, particularly after an inordinate and unexplained delay.
10. In view of the foregoing facts and circumstances, the present Claim Petition is devoid of merit, barred by limitation, suffers from non-joinder of a necessary party and has been filed with the sole intention of avoiding the lawful dues payable by the Claimant. The Respondent respectfully prays that the Claim Petition be dismissed with exemplary costs.

BRIEF WRITTEN SUBMISSIONS/REJOINDER ON BEHALF OF THE APPELLANT

1. That the Respondent Society has unequivocally admitted that the Appellant is one of the legal heirs/legal representatives of Late Shri Bhagwan Das, S/o Late Shri Vishan Das, who was a member of Jhulelal Sindhu Nagar Cooperative Group Housing Society Ltd. and the owner/member in respect of Flat No. M-8/D-10 bearing Membership No. 125. Accordingly, the Appellant's locus standi is no longer in dispute.
2. That in reply to Paragraph 2 of the Appeal, the Respondent has merely stated that the contents are "denied for want of knowledge." Such a plea is vague, evasive and legally untenable. It is settled law that a bald denial for want of knowledge, without a specific traverse, does not constitute an effective denial. Consequently, the fact relating to the existence and execution of the Registered Will dated 04.04.2019 executed by Late Shri Bhagwan Das remains uncontroverted and is liable to be treated as admitted.
3. That the Respondent Society has alleged that the Appellant's application dated 01.05.2025 was replied to by calling upon him to furnish certain documents, undertakings and No Objection Certificates and further informed him about alleged outstanding dues. However, the said plea is wholly false, unsupported by any documentary record and deserves to be rejected.
4. That the Appellant had submitted all requisite documents, including the Death Certificate of Late Shri Bhagwan Das, the Registered Will dated 04.04.2019, No Objection Certificates, affidavits and all other documents prescribed under the Delhi Cooperative Societies Act and Rules, along with the application dated 01.05.2025. The said application was duly received by the Respondent Society under proper acknowledgment and forms part of the Appeal at Pages 1 to 27. Significantly, the Respondent has failed to place on record any copy of the alleged reply or any proof of its dispatch or service upon the Appellant. In the absence of such evidence, the



Respondent's assertion that a reply was issued is wholly baseless and deserves to be discarded.

5. That after expiry of the statutory period of thirty days, the Respondent Society neither transferred the membership nor communicated any reasoned order rejecting the Appellant's application. Instead, the Respondent has sought to justify its inaction by raising vague and unsupported allegations regarding alleged dues payable to DCHFC. The said plea is wholly untenable as no statement of account, demand notice or any documentary evidence has been produced to establish any outstanding liability against the Appellant. The documents relied upon by the Respondent do not pertain to the Appellant or the subject membership. Further, the alleged "Individualization Scheme" has neither been substantiated by any legally enforceable resolution nor can it override the provisions of the Delhi Cooperative Societies Act, 2003. In any event, the Hon'ble High Court of Delhi in the *Meenu Tomar* case has held that such schemes cannot be enforced contrary to law. Accordingly, the Respondent has failed to disclose any valid legal ground for withholding the transfer of membership.
6. The Respondent has failed to disclose any valid, legal or statutory reason for refusing or withholding transfer of membership in favour of the Appellant despite receipt of all requisite documents. The entire defence of the Respondent is based on vague assertions unsupported by any admissible evidence and is liable to be rejected.
7. It is, therefore, respectfully submitted that the Respondent Society has acted arbitrarily, illegally and in violation of the provisions of the Delhi Cooperative Societies Act, 2003 and the Rules framed thereunder by failing to decide the Appellant's application for transfer of membership within the prescribed period and by raising frivolous and unsupported objections.

Findings

I have carefully considered the appeal, the written statement filed by the respondent Society, the rejoinder of the appellant, the documents placed on record and the submissions advanced by both parties. The issue for determination is whether the respondent Society failed to discharge its statutory obligation under Rule 30(7) of the Delhi Cooperative Societies Rules, 2007 and whether the appellant is entitled to transfer of membership.

It is an admitted position that Late Sh. Bhagwan Das was a member of the respondent Society bearing Membership No. 125 in respect of Flat No. M-8/D-10 and expired on 12.02.2024. The appellant seeks transfer of membership on the basis of a registered Will dated 04.04.2019. The respondent has neither specifically denied the execution of the Will nor produced any material to dispute the appellant's claim or show the existence of any rival claimant. For the limited purpose of Rule 30 of the Delhi Cooperative Societies Rules, 2007, the appellant has established his claim as the successor-in-interest.

The record further shows that the appellant submitted his application for transfer of membership on 01.05.2025. The respondent has also failed to establish that any decision was taken on the appellant's application within the statutory period of thirty days as required under Rule 30(7).



The objections raised by the respondent Society regarding alleged outstanding dues, the purported Individualization Scheme allegedly approved in the Annual General Meeting held on 06.11.2011, limitation and non-joinder of Delhi Cooperative Housing Finance Corporation Ltd. are beyond the scope of the present proceedings and, in any event, are unsupported by cogent evidence.

Insofar as the Individualization Scheme is concerned, the respondent Society has failed to explain the nature, purpose and applicability of the said scheme to the present case. Despite placing reliance upon the said scheme, the Society has neither produced a copy of the proceedings or resolution of the Annual General Meeting dated 06.11.2011 nor furnished any documentary material to demonstrate how or why the scheme governs or affects the appellant's claim for transfer of membership.

The respondent Society has also failed to clarify the circumstances under which the alleged Individualization Scheme was adopted, its terms and conditions, or the manner in which it became binding upon the members of the Society. In the absence of the relevant AGM record or any supporting documentary evidence, the plea based on the alleged Individualization Scheme remains wholly unsubstantiated and cannot be accepted.

Conclusion

In view of the above findings, I hold that the respondent Society failed to discharge its statutory obligation under Rule 30(7) of the Delhi Cooperative Societies Rules, 2007 by not deciding the appellant's application within the prescribed period. The objections raised by the respondent are devoid of merit and do not justify withholding the transfer of membership.

Accordingly, the appeal is allowed. The respondent Society is directed to transfer Membership No. 125 along with the shares and interest of Late Sh. Bhagwan Das in favour of the appellant, Sh. Ramesh Kumar, in accordance with the registered Will dated 04.04.2019, within 10 days from the receipt of this order. It is clarified that this order shall not preclude the respondent or any other competent authority from recovering any lawful dues, if payable, in accordance with law. The respondent Society shall file a compliance report before this Authority within 15 days of affecting the transfer, failing which proceeding u/s 37 may be initiated.

The appeal stands disposed of accordingly.




Krishna Kumar Singh (IAS)
Registrar Cooperative Societies

Sent To:-

1. The President/Secretary, Jhulelal Singhu Nagar CGHS Ltd. Road No. 44, Pitampura, New Delhi-110034.
2. Sh. Ramesh Kumar, S/o Late Sh. Bhagwan Dass, R/o Flat No. M8/D10, Jhulelal Singhu Nagar CGHS Ltd. Road No. 44, Pitampura, New Delhi-110034.

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