

IN THE COURT OF ADDL.REGISTRAR
OFFICE OF REGISTRAR: COOP. SOCIETIES
OLD COURT'S BUILDING, PARLIAMENT STREET, NEW DELHI

No.F.47/1151/GH/SW/1529-1531

Dated: 12.10.12

In the matter of:-

Shivani CGHS Ltd.
Plot No.18, Sector-12, Dwarka,
New Delhi-110075

.....Petitioner

Versus

Shri Suresh Chand Sharma,MS No.128
R/o. 318/101 M, Tulsi Nagar,
Inder Lok, Delhi-110035

..... Respondent

ORDER

Vide this order I shall dispose of the proposal dated 19.10.2011 received from Shivani CGHS Ltd. (hereinafter the Society) for expulsion of its member, Shri Suresh Chand Sharma, MS No.128 under Section 86(1)(a) of Delhi Cooperative Societies Act, 2003(hereinafter the Act).

2. The facts leading to the proposal dated 19.10.2011 of the Society for expulsion of the Respondent u/s 86(1)(a) of the Act in brief are as under:-

- i) The Managing Committee of the Society in its meeting held on 12.6.2011 taking note of the fact that the Respondent had not paid outstanding amount of Rs.32,39,172/- resolved to initiate expulsion proceedings against him. Consequent thereto, three expulsion notices dated 21.6.2011, 22.7.2011 and 25.8.2011 were sent at the address 318/101 M, Tulsi Nagar, Inder Lok, New Delhi-110035.



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- ii) All the aforesaid notices were received back unserved with the postal remarks "Left".
- iii) Vide letter dated 27.9.2011, the Respondent was again required to appear before the Managing Committee of the Society on 10.10.2011. This notice was again returned unserved with the postal remarks "Left".
- iv) The Managing Committee of the Society in its meeting held on 10.10.2011 passed a Resolution to expel the Respondent from the membership of the Society u/s 86(1)(a) of the Act for his persistent default in making payment of Rs.32,39,172/- to the Society.
- v) Consequent to the above Resolution, the proposal dated 19.10.2011 as mentioned above was sent to the RCS for approval.

3. Section 86(1)(a) of the Act reads as under:-

86. Expulsion of a member:-

(1) Notwithstanding anything contained in this Act and the rules framed thereunder, the committee of a co-operative housing society may, by a resolution, expel a member on any one or more of the following grounds, namely -

(a) if he has been a persistent defaulter in respect of any dues of the co-operative housing society; or

(b) xxxxx

(c) xxxxx

Provided that no such resolution shall be passed unless the member concerned has been given an opportunity of being heard after service of three registered notices confronting the member with the grounds for his proposed expulsion :

Provided further that no member shall be expelled unless a resolution to that effect is passed by not less than three-fourths of the members of the committee present and



entitled to vote at the meeting and no resolution for expulsion shall be valid unless approved by the Registrar.

4. From the proposal dated 19.10.2011 moved by the Society, it appeared that the Society has complied with the requirements of law in so far as three registered notices confronting the member with the grounds for his proposed expulsion had been sent by registered post, the member concerned had been given an opportunity of being heard and appropriate Resolution had been passed by the Managing Committee of the Society expelling the Respondent from the membership of the Society. Taking cognizance of the case, notice dated 16.12.2011 was sent by the Spl.RCS who was holding administrative jurisdiction over the case at that time. In spite of notices dated 16.12.2011 and 18.1.2012, the Respondent failed to appear before the Spl.RCS. Notice dated 9.4.2012 requiring the Respondent to appear before the Spl.RCS on 16.4.2012 was returned unserved with the Bailiff's remarks that the Respondent has left for an unknown place and the whereabouts are not known to the neighbours. It was at this stage that due to re-allocation of work in the O/o. RCS, the present case was transferred to the Court of Addl.RCS. Under the circumstances, the only option left was to give an opportunity to the Respondent through a Public Notice. However, before proceeding further, it was thought prudent to go through the documents in the possession of the Society with regard to the address of the Respondent to satisfy myself that notices have been sent to the Respondent at the correct address.

5. In pursuance to a direction to the Society, the following documents were placed on record by the Society on 1.8.2012:-

1. *An undertaking signed by the President and Secretary of the Society with regard to the address of the Respondent.*
2. *A copy of the Membership Application Form wherein the Applicant had indicated the address which is the same as the*

[Handwritten signature]



one on which recent notices have been sent to the Respondent.

3. Copies of envelopes bearing reports of Postal Department which have been returned back undelivered.

4. A copy of the Membership Register wherein the address of Shri Suresh Chand Sharma has been shown as same which is indicated on the recent notices.

6. A notice was directed to be published in two leading newspapers of Delhi, one in English and one in Hindi at the expense of the Society requiring the Respondent to appear before the Court on the next date. A copy of the Public Notice was also directed to be displayed on the website of the Department. The Public Notice appeared in two newspapers viz. "Hindustan Times (English) and "Navbharat Times (Hindi) on 10.8.2012. The notice was also displayed on the website of the RCS Office.

Inspite of repeated opportunities, the Respondent did not enter appearance. Under the circumstances, the only option left is to be proceed with the case ex-parte.

7. The Society constructs flats out of the funds contributed by the members of the Society. If a member of the Society does not contribute towards construction of flats, the Society has the right to expel the member so as to be able to enroll another member in his place who shall contribute towards the cost of construction. The Respondent has not appeared before the Society or this Office inspite of repeated opportunities. As per the records of the Society, more than Rs.32.00 lacs are outstanding against the Respondent. I am of the considered view that this is a fit case for approval of expulsion of the Respondent, Shri Sursh Chand Sharma, MS No.128, from the membership of the Society. It is ordered accordingly. Copies of this order be sent to the parties free of



g.m.

cost. This order be also displayed on the website of RCS Office.
File be consigned to concerned Zone.

8. Given under my hand and seal on 12.10.2012.



(G.P. SINGH)
ADDL.REGISTRAR: COOP. SOCIETIES

No.F.47/1151/GH/SW/1529-1531

Dated: 12.10.12

Copy to:-

- 1 The President/Secretary, Shivani CGHS Ltd. Plot No.18, Sector-12, Dwarka, New Delhi-110075.
2. Shri Suresh Chand Sharma, R/o. 318/101 M, Tulsi Nagar, Inder Lok, Delhi- 110035
3. RCS, GNCTD for information.



(G.P. SINGH)
ADDL.REGISTRAR: COOP. SOCIETIES

