
(2009) 04 DEL CK 0313

In the Delhi High Court

Case No : Writ Petition (Civil) 6574 of 2003

Amit Bajaj

APPELLANT

Vs

Registrar, Coop. Societies and Others

RESPONDENT

Date of Decision : 15-04-2009

Acts Referred:

Citation : (2009) 110 DRJ 487 : (2010) 7 RCR(Civil) 335

Hon'ble Judges : Siddharth Mridul, J; Madan B. Lokur, J

Bench : Division Bench

Advocate : Rajeshwar Kumar Gupta, for the Appellant; Manoj Rath, V.K. Tandon and Pawan Mathur, for the Respondent

Final Decision : Allowed

Judgement

Madan B. Lokur, J.—The Petitioner's grandmother Smt. Rukmani Devi was a member of Respondent No. 2-Society. She was desirous of transferring the membership in favour of the Petitioner. The transfer was approved by the Managing Committee of Respondent No. 2-Society. However, the Registrar of Co-operative Societies did not accept the transfer in view of a directive issued under Rule 77 of the Delhi Co-operative Societies Rules, 1973.

2. The directive has been placed on record by the Petitioner on pages 45 to 48B of the paper book. The sum and substance of the directive and other connected directives is that transfer of membership will be allowed only in the case of first degree blood relations. A first degree blood relation is defined as father, mother, brother, sister, son, daughter and spouse.

3. On the basis of these directives, the name of the Petitioner was not sent for the draw of lots for allotment of a flat.

4. It was under these circumstances that the Petitioner has challenged the directives before us and it is submitted that there is no rational basis for denying the allotment of the flat to the Petitioner.

5. There is no representation on behalf of the Registrar of Co-operative Societies. However, we have been taken through the counter affidavit filed by the Registrar and we find that there is no justification whatsoever that has been given for limiting the transfer of membership only to a first degree blood relation.

6. In the present case there is no dispute about the fact that the transfer of membership from Smt. Rukmani Devi to the Petitioner is a genuine transfer, inasmuch as the blood relationship is not doubted and it is nobody's case that the transfer is a benami transfer or a fraudulent transfer. That being the position there does not seem to be any reason for denying acceptance to such a genuine transfer merely because the relationship of grandmother and grandchild is not a first degree blood relation.

7. Learned Counsel for the Petitioner has drawn our attention to somewhat a similar situation that had arisen in W.P.(C) No. 2110/1999 (Vivek Sibal v. The Registrar of Co-operative Societies and Ors.) decided on 17th November, 2004.

8. In that case, the petitioner's grandfather was desirous of transferring his membership in favour of Vivek Sibal but since that was not approved by the Registrar of Co-operative Societies, a writ petition was filed in this Court. A Division Bench came to the conclusion that there was no rational basis for denying the transfer of membership and that the directive said to have been issued under Rule 77 of the Delhi Co-operative Societies Rules, 1973 was completely arbitrary, insofar as it denied the transfer among blood relations such as grandfather and grandson.

9. Following the decision of the Division Bench in Vivek Sibal with which we do not find any reason to disagree, we hold that the transfer of membership of Smt. Rukmani Devi to her grandson Amit Bajaj (Petitioner) ought to be recognized by the Registrar of Co-operative Societies. After due recognition is granted, necessary steps may be taken in accordance with law for the allotment of a flat to the Petitioner by including his name in the draw of lots.

10. The Registrar of Co-operative Societies is directed to hold the draw of lots within four weeks from today.

11. The writ petition is allowed to the extent mentioned above.