

(2006) 03 DEL CK 0136

In the Delhi High Court

Case No : WP (C) No. 4949 of 2006 and CM No's. 4084 and 4085 of 2006

Mr. V.K. Goyal

APPELLANT

Vs

Ordinance Co-op. G/H Society Ltd. and Others

RESPONDENT

Date of Decision : 31-03-2006

Acts Referred:

Citation : (2006) 128 DLT 792 : (2006) 88 DRJ 542

Hon'ble Judges : V.K. Jain, J;S.N. Aggarwal, J

Bench : Division Bench

Advocate : Vivekanand, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Vijender Jain, J.—The petitioner has filed this writ petition challenging the Award/ order dated 31.3.2005 passed in Case No.F.ARB./AB./03/-04/117 by respondent No.2 u/s 60 of Delhi Co-operative Societies Act, 1972 and order dated 2.2.2006 in Appeal Case No.67/05-DCT passed by respondent No.3 in an appeal u/s 76 of the Delhi Co-operative Societies Act, 1972 (hereinafter referred to as the 'Act').

2. The factual matrix of the case is that the petitioner allegedly obtained from respondent No. 4 the membership of respondent No. 1/Society for a valuable consideration on 27.7.1994 with delivery of possession of flat in favor of the petitioner. The petitioner has alleged that possession of the flat in question was handed over by the Society to him and after getting possession of the same, he got the aforesaid flat converted into freehold from D.D.A. after 'No Due Certificate' was given by respondent No.1/Society.

3. On 23.3.2000, the respondent No.1/Society raised a demand of Rs. 1,26,781/- upon respondent No.4, who was the original member of the Society. Since the said demand made by respondent No.1/Society was not met either by respondent No.4 or by the petitioner, the Society initiated proceedings in January, 2004 by filing a claim petition u/s 60 of the Act for recovery of Rs. 3,52,077/- which includes Rs. 3,49,186/- towards the alleged loan Installments

calculated up to 31.12.2003 against respondent No.4.

4. The Arbitrator gave an Award against respondent No.4 on 31.3.2005 against which the petitioner filed an appeal u/s 76 of the Act and his said appeal was dismissed vide impugned order dated 2.2.2006 passed by the Delhi Co-operative Tribunal. The relevant portion of the impugned order of the Tribunal is reproduced hereinbelow:

I have carefully considered the submissions made by the Ld. Counsels for the parties. I find that in view of the judgments cited by the counsel for the respondent the appellant is a person claiming through a member and as such a necessary party as laid down in Clause (b) Sub-section 1 of Section 60. Hence, the award passed against him is in order.

5. It is apparent from the above that the appeal filed by the petitioner before the Delhi Co-operative Tribunal was dismissed mainly for the reason that the membership of respondent No.4 in respondent No.1/Society had not been transferred in the name of the petitioner and as such it was found that he had no locus standi to dispute the Award passed by the Arbitrator u/s 60 of the Act against respondent No.4. The petitioner could not show even before us that the membership of respondent No.4 in respondent No.1/Society had ever been transferred in his name, though he allegedly obtained the membership from respondent No.4 way back in 1994. Under the circumstances, we do not find any infirmity or illegality in the impugned order of the Delhi Co-operative Tribunal.

6. In view of the above, this writ petition is dismissed in liming.