

(2001) 04 DEL CK 0056

In the Delhi High Court

Case No : CW. No. 2475 and CM. 4287 of 2001

Shri H.S. Dhingra

APPELLANT

Vs

Saraswati Cooperative Group Housing Soccity Ltd.

RESPONDENT

Date of Decision : 20-04-2001

Acts Referred:

Citation : (2001) 5 AD 431 : (2001) 92 DLT 419 : (2001) 59 DRJ 65

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Mr. K.P. Kapur, for the Appellant;

Judgement

Manmohan Sarin,J (Oral)

1. Learned counsel for the petitioner urges that the petitioner's signatures had been fabricated on the resignation letter. In short, the submission is that the petitioner did not resign. Learned counsel for the petitioner also questions the veracity of the record of proceedings before the arbitrator. It is alleged that the respondent had not produced the original resignation letter. The arbitrator in the award has dealt with the petitioner's contentions. The award given is a reasoned one. The arbitrator in the award has clearly observed, "I have heard the learned counsel for both the parties and have also carefully examined all the original documents including resignation letter dated 4.1.1996, minutes of the M.C. meeting dated 13.1.1996, as produced by the defendant society before me and have also gone through the written submissions filed by both the parties....." The arbitrator further goes on to notice that as against the petitioner's claim of having paid Rs.2.5 lacs, receipts worth only for Rs.1.52 lacs were produced. The arbitrator observed as under:-

"The claimant has denied his signature on the said resignation letter. The society on the other hand asserted that claimant had signed the resignation letter and had tendered the same to the society and now due to some malafide intention denying his signature. It is also stated that since ninety five percent construction

has already been completed, the claimant due to malafide intention claiming the membership. I agree with stand of the society and of careful examination of the signatures of the claimant as put by him on different documents on records with his signature on the resignation letter. All appear to be same and of the claimant. The Society has also enrolled Sh. Sudhir Bhalla and Smt. Kiran Bhalla (joint members) against the vacancy created by the resignation of the claimant and they have made the entire payments to the society."

2. The arbitrator has noticed that the resignation of the petitioner was duly accepted and he was informed of the same. The arbitrator after considering the evidence and examining the documents has reached the finding of the petitioner having submitted his resignation, which has been affirmed in appeal. The Financial Commissioner while affirming the appeal had noticed that the petitioner though alleging fraud had not taken any steps for criminal action against the respondent.

3. Learned counsel for the petitioner, at this stage, submits that with the current available technology, by use of optical scanner, it is possible to lift the admitted signatures and forge them on another document. I am afraid such a plea, which is devoid of material particulars, as regards alleged fraudulent conduct, cannot negate the findings of fact, as given by the arbitrator and affirmed in appeal. The mere possibility due to modern science and technological advances to the plea now sought to be raised without any foundation therefore.

4. The writ petition has no merit and is dismissed in limine.