

GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
IN THE COURT OF THE REGISTRAR COOPERATIVE SOCIETIES
OLD COURT BUILDING, PARLIAMENT STREET, NEW DELHI-
110001

F.NO. 47/GH/ 1112/ AR/SEC-1/GH/RCS/ 2022 /4868

DATED 26/12/25

IN THE MATTER OF:

Jagat Singh

Petitioner

Versus

Sh. Sushil Kumar Jain

Respondent

ORDER

This order shall dispose of the proceedings initiated vide show cause notice dated 23.08.2024 issued u/r 20 (1)(c)(i) & (iii) of DCS Rules, 2007 read with section 87 and 41 (d) of the DCS Act, 2003 whereby Sh. Sushil Kumar Jain was called upon to show cause as to why his membership in The Bhagwati CGHS Limited (Regn. No 1112/GH), Plot No.1A, Sector-22, Dwarka, New Delhi-110075 be not ceased on the ground that he owns another property in Delhi.

The brief facts of the case are as under:-

1. That the present petition u/r 20 (1)(c)(i) & (iii) of DCS Rules, 2007 read with section 87 and 41 (d) of the DCS Act, 2003 was filed by one Sh. Jagat Singh alleging therein that Sh. Sushil Kumar Jain (respondent No.1) who is a member of the Bhagwati CGHS Ltd. (respondent No.2), has another property in Delhi bearing Plot No.21 in Block No.18 measuring 241.11 sq. yds situated in the layout plan of Roshanara Extension Scheme, Shakti Nagar, Delhi and has thus incurred disqualification under the provision law.
2. A show cause notice dated 23.08.2024 under the aforesaid provision of law was issued to Sh. Sushil Kumar Jain and a copy of the complaint was also provided to him to give reply to the same.
3. In the reply, Sh. Sushil Kumar Jain challenged the locus of the petitioner to file and maintain the complaint / petition against him and on merits, he has provided the following chain of previous owners from whom a portion of the aforesaid property came to him:
 - (i) That (i) Shri Giani Ram Jain S/o Shri Naha Mai, (ii) Shri Mool Chand Jain and (iii) Shri Om Parkash Jain, both sons of Shri Bhuria Mai Jain jointly purchased a freehold residential plot bearing No.21 in Block No.18 measuring 241.11 sq. yds situated in the layout plan of Roshanara Extension Scheme, presently known as Shakti Nagar, Delhi from (i) Shri Amita Pratap Mitra, (ii) Shri Bijoy Pratap Mitra and (iii) Shri Krishna Pratap Mitra all sons of Dr. Ishan Tosh Mitra vide registered conveyance deed dt.01.08.1958 registered as document registered No.3571 in Addl. Book No.1, Vol. No.432 on pages from 97 to 102 registered on 02.08.1958.
 - (ii) After purchasing the aforesaid plot, a two and half storied residential building was constructed on the said plot by the owners. One of the purchasers namely Shri Om



Parkash Jain sold his undivided 1/3rd share in the aforesaid property to (i) Shri Mool Chand Jain and (ii) Shri Giani Ram Jain vide two separate sale deeds dt.07.09.1973. Thus, (i) Shri Mool Chand Jain and (ii) Shri Giani Ram Jain became the only lawful co-owners of above-mentioned property.

- (iii) That Shri Giani Ram Jain died on 04.12.1981 leaving behind his wife, three sons and four daughters as mentioned in the sale deed dt.28.07.1997. All the legal heirs except (i) Sh. Kamal Jain and (ii) Sh. Sanjay Jain relinquished all their rights, titles, and interests in the half undivided share in the aforesaid property in favour of (i) Sh. Kamal Jain and (ii) Sh. Sanjay Jain, sons of Late Shri Giani Ram vide registered relinquishment deed dt.19.03.1982.
- (iv) Thus, Sh. Mool Chand on one part and Sh. Kamal Jain and Shri Sanjay Jain on other part became co-owners of the aforesaid two and half storied built up property bearing No.18/21 Shakti Nagar, Delhi.
- (v) Thereafter, vide registered Partition Deed dt.28.08.1997, the aforesaid property was partitioned and Shri Mool Chand became sole and exclusive owner of the entire ground floor of the aforesaid property with a portion of mezzanine along with common area and passage with undivided and indivisible proportionate share of free hold land under the building, whereas Shri Kamal Jain and Shri Sanjay Jain became sole and exclusive co-owners of the entire First floor and roof of the aforesaid property with common area and passage with undivided and indivisible proportionate share of free hold land under the building,
- (vi) That Shri Mool Chand thereafter sold rear portion of Ground Floor of the aforesaid property to one of his sons namely Sh. Sushil Kumar Jain (the answering respondent herein) having its area of 100 sq. yds. Vide registered sale deed dt.28.08.1997 with undivided and indivisible proportionate share of free hold land under the building. The said sale deed was registered as document registered No.4702 in Addl. Book No.1, Vol. No.7592 on pages from 33 to 42 registered on 28.08.1997.
4. Thus Sh. Sushil Kumar Jain vide registered sale deed dt.28.08.1997 became a co-sharer along with other owners of different portions of the building constructed thereon and the share of the Sh. Sushil Kumar Jain in the land on which the aforesaid building was constructed was less than 66.72 sq. metres i.e. only 50 sq. yds. which is otherwise exempted under the proviso (a) to Rule 20 (1) (c) (i) and the judgments of Hon'ble High Court of Delhi in the case of "Kallu Ram Sharma Vs. the Financial Commissioner" and "Bindya Aggarwal Vs. RCS" in support of her case.
5. In nutshell, the stand of Sh. Sushil Kumar Jain is that the rear portion of his aforesaid property, which he purchased vide sale deed dated 28.08.1997, is only 100 sq. yds. and the same is on ground floor and there is another owner in possession of same area at the first floor in a two and half storied building. Therefore, the share of Sh. Sushil Kumar Jain in the land beneath the said property/building, if divided amongst two floor owners, is only 50 sq. yds. (41.81 sq. metre), which is less than 66.72 sq. metre and is therefore saved / exempted in view of Proviso (a) to Rule 20 (1) (c) (I) of the DCS Rules, 2007, and the above judgments. Relevant portion of Rule 20 (1) (c) (i) of the DCS Rules, 2007 reads as follows:



Rule 20 (1) (c) (a) of DCS Rules, 2007:

(1) No person shall be eligible for admission as a member of a co-operative society if he:-

(a)

(b)

(c) **in the case of membership of a housing society:-**

(i) owns a residential house or a plot of land for the construction of a residential house in any of the approved or un-approved colonies or other localities in the National Capital Territory of Delhi, in his own name or in the name of his spouse or any of his dependent children, on lease hold or free-hold basis or on power of attorney or on agreement for sale;

Provided that above clause shall not be applicable-

(a) in case of co-sharers of property whose share is less than 66.72 sq. metres of land or if the residential property devolves on him by way of inheritance;

(b) In the case of a person who has acquired on power of attorney or through agreement to sale and on conversion of the property from leasehold to freehold on execution of conveyance deed for it, if such person applies for the transfer of membership of the housing society concerned

(ii) deals in purchase or sale of immovable property either as principal or as agent in the National Capital Territory of Delhi; or

(iii) his spouse or any of his dependent children is a member of any other co-operating housing society.

6. The Hon'ble High Court of Delhi in the cases of "Kallu Ram Sharma Vs. The Financial Commissioner of Delhi" and "Bindya Aggarwal Vs. RCS & Anr", has also held that it is the individual share in land and not the area of flat in a multi-storied building which is to be seen while deciding the issue of disqualification.

7. As per sale deed submitted it is seen that contention of Sh. Sushil Kumar Jain is correct.

8. The predecessor of this court, after relying upon above judgments, has also held, in a few other similar cases of this very Society, that no disqualification is incurred by the member if his / her share in the land is less than 66.72 sq. meter.

9. The petitioner has neither appeared on any of the dates in this case to pursue his petition nor filed any submissions or evidence thereafter to rebut the reply filed on behalf of the respondent member, which indicates that petition is just a misuse of the process of law for some extraneous reasons.

In the light of the submissions and judgments filed by the respondent, the allegation made in the complaint against the respondent is found to be untenable in law and therefore, the complaint against the respondent is hereby dismissed and the show cause notice earlier issued



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to the respondent for cessation of his membership in the Bhagwati CGHS Ltd. stands withdrawn. As a result, Sh. Sushil Kumar Jain continues to be a regular member of the Bhagwati CGHS Ltd.



KS 26/12/25

Krishna Kumar Singh
Registrar Cooperative Societies, Delhi

Copy to:

1. Sh. Jagat Singh D-407, Sr. Durga CGHS Ltd. Sector-12, Dwarka, Delhi-75
2. Sh. Sushil Kumar Jain, through President / Secretary of the Bhagwati CGHS Ltd., Plot No.1A, Sector-22, Dwarka, New Delhi-75
3. Asstt. Registrar (Sec-1), office of RCS.
4. Asstt. Registrar IT Cell. office of RCS.