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

F.No.47/RCS/ARCS-02/2023/8354-59 Dated: 28/10/25

Order

This order shall dispose of the proceedings initiated vide impleadment dated 23.09.2025, by the Society under Sections 87 and 41 of the Delhi Cooperative Societies Act, 2003, seeking cessation of the memberships of Sh. Rajesh Mittal and his wife, Smt. Monika Mittal, in Canara Group Co-operative Group Housing Society Ltd., Plot No. 16, Sector-13, Rohini, New Delhi–110085.

Brief facts of the case

A petition was received from Sh. Rajeev Parashar, Member and owner of Flat No. 90, Canara Apartment, Sector-13, Rohini, Delhi-110085, under Section 87 of the Act against certain members of the Society. During the pendency of the proceedings, the learned Advocate appearing on behalf of the Society and the respondents filed an application dated 23.09.2025 under Order I Rule 10 of the Code of Civil Procedure, seeking impleadment of Sh. Rajesh Mittal and Smt. Monika Mittal as parties to the present proceedings on the same ground. The said application was allowed and Sh. Rajesh Mittal and Smt. Monika Mittal were accordingly impleaded as parties.

The petitioner society has stated that Sh. Rajesh Mittal is a member of the Society in respect of Flat No. 40, bearing Membership No. 242, whereas his wife, Smt. Monika Mittal, is also a member of the same Society in respect of Flat No. 39, bearing Membership No. 93. It has been alleged that the aforesaid arrangement amounts to dual membership in the Society and, accordingly, appropriate action has been sought against Sh. Rajesh Mittal and Smt. Monika Mittal under Sections 41 and 87 of the Act read with the applicable provisions of the Delhi Cooperative Societies Rules, 2007.

SUBMISSIONS OF THE RESPONDENTS

1. The respondents, namely, Sh. Rajesh Mittal, Member in respect of Flat No. 40, and Smt. Monika Mittal, Member in respect of Flat No. 39, in Canara Apartment Co-operative Group Housing Society Ltd., Plot No. 16, Sector-13, Rohini, Delhi–110085, have filed their reply opposing their impleadment in the present proceedings and the proposed cessation of their respective memberships.
2. The respondents have submitted that they were not parties to the original petition filed by the petitioner and that they have been impleaded at the instance of Respondent society, through its President/Secretary, by invoking the provisions of Order I Rule 10 of the Code of Civil Procedure (CPC). According to them, such impleadment is misconceived and untenable, as the matters concerning cooperative

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societies are governed by the Delhi Cooperative Societies Act, 2003, and the Rules framed thereunder.

3. The respondents have contended that the proceedings before the Registrar of Cooperative Societies are quasi-judicial in nature and are governed by the statutory provisions of the Delhi Cooperative Societies Act, 2003, and the Delhi Cooperative Societies Rules, 2007. They have argued that the RCS cannot assume the plenary powers of a civil court under the CPC and that the provisions of Order I Rule 10 CPC cannot be invoked as a matter of right in the absence of specific statutory authority and compliance with the requisite jurisdictional conditions.

4. It has further been submitted that mere apprehension, speculative interest or the possibility of future consequences does not constitute a valid ground for impleadment. The respondents have alleged that their impleadment is mala fide and is intended to complicate the adjudication of the main matter. Accordingly, they have prayed that their impleadment be dismissed with costs, without prejudice to their rights and contentions in the main proceedings.

5. The respondents have also referred to the proceedings initiated on 08.08.2024, wherein Respondent society, through its President/Secretary, was directed to produce the relevant records concerning the memberships of other members against whom complaints had been made. They have alleged that, in its reply dated 16.12.2024, Respondent society failed to act fairly and adopted a policy of selective action against certain members, including the respondents, despite the alleged existence of several other cases in the Society where both spouses hold separate memberships.

6. Smt. Monika Mittal has submitted that she is not the original allottee of Flat No. 39 in the Society and that she purchased the said flat from the open market in 2005 from her own sources of funds. She has stated that the sale consideration was paid to the seller through a demand draft drawn from her bank account maintained with Axis Bank Ltd. She has further claimed that the transaction was duly reflected in her income-tax returns and that the flat was subsequently converted into freehold through a conveyance deed executed by the Delhi Development Authority (DDA). Thereafter, she applied for membership of the Society and paid the requisite membership fee. She has asserted that she is a working professional and an independent taxpayer with distinct sources of income.

7. Similarly, Sh. Rajesh Mittal has submitted that he is not the original allottee of Flat No. 40 and that he purchased the said flat from the open market in 2010 using his own income and savings. He has stated that the sale consideration was paid to the seller through a demand draft drawn from his bank account maintained with Axis Bank Ltd. He has further submitted that the transaction was duly reflected in his income-tax returns and that the flat was subsequently converted into freehold through a conveyance deed executed by the DDA. Thereafter, he applied for membership of the Society and paid the requisite membership fee. He has asserted that he is a working professional and an independent taxpayer having his own distinct sources of income.

8. The respondents have further contended that there is no absolute prohibition against a husband and wife holding separate memberships in the same cooperative housing society where each has an independent source of income and the acquisition of the respective properties is financed through their own funds. In

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support of their contention, they have relied upon the judgment of the Hon'ble High Court of Delhi dated 06.08.2012 in Ratna Mohla v. Registrar of Cooperative Societies, W.P.(C) No. 2531/2012.

9. The respondents have referred to the observations in Ratna Mohla v. Registrar of Cooperative Societies, wherein reliance was placed upon the judgment of the Division Bench in Alimuddin v. Registrar of Cooperative Societies, reported as 63 (1996) DLT 665, and the judgment in Kalu Ram v. Financial Commissioner & Ors., W.P.(C) No. 794/2012, decided on 08.02.2012. They have relied upon the principle that separate membership and ownership may be permissible where the acquisition is financed from the independent resources of the concerned spouse, rather than through funds provided by the other spouse for obtaining membership or allotment.

10. In view of the aforesaid submissions, the respondents have prayed that their impleadment in the present proceedings be dismissed and that no order for cessation of their respective memberships in the Society be passed.

FINDINGS AND OBSERVATIONS

I have considered the Impleadment application, the replies/submissions made by the respondents and the material available on record. The issue for determination is whether the separate memberships of Sh. Rajesh Mittal, Membership No. 242 in respect of Flat No. 40, and his wife, Smt. Monika Mittal, Membership No. 93 in respect of Flat No. 39, in Canara Group Co-operative Group Housing Society Ltd., are in contravention of Sections 41 and 87 of the Delhi Cooperative Societies Act, 2003.

The respondents have contended that they independently purchased their respective flats from the open market using their individual sources of income and savings. Smt. Monika Mittal has claimed to have purchased Flat No. 39 in 2005, while Sh. Rajesh Mittal has claimed to have purchased Flat No. 40 in 2010. They have further stated that the sale consideration was paid through demand drafts drawn from their respective bank accounts, that the transactions were reflected in their income-tax returns and that the flats were subsequently converted into freehold through conveyance deeds executed by the Delhi Development Authority.

However, the respondents have failed to place on record any supporting documentary evidence to substantiate their aforesaid claims. No relevant bank statements, demand drafts, proof of payment of sale consideration, income-tax returns or other financial documents have been submitted to establish that the respective properties were acquired exclusively from their independent financial resources. Mere assertions in their replies, unsupported by cogent documentary evidence, are insufficient to establish the independent nature of the financial transactions. The respondents have, therefore, failed to discharge the burden of substantiating the factual claims on which they seek to justify their separate memberships.

The respondents have relied upon the judgments in Ratna Mohla v. Registrar of Cooperative Societies, W.P.(C) No. 2531/2012, decided on 06.08.2012, Alimuddin v. Registrar of Cooperative Societies, 63 (1996) DLT 665, and Kalu Ram v. Financial Commissioner & Ors., W.P.(C) No. 794/2012, decided on 08.02.2012. However, reliance upon judicial precedents cannot dispense with the requirement of establishing the relevant

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facts of the individual case. In the absence of supporting documentary evidence, the respondents cannot claim the benefit of the principle relied upon by them merely on the basis of their own assertions regarding independent sources of income and acquisition of the properties.

It is further observed that the respondents' contention regarding alleged selective action by the Society against them, while other similarly placed members have allegedly been permitted to retain separate memberships, does not provide a valid justification for the memberships in question. The legality of each membership is required to be examined independently in accordance with the applicable statutory provisions and the evidence available on record.

In view of the above, the respondents have failed to substantiate their defence that the respective properties were acquired from their independent financial resources. Their submissions, being unsupported by documentary evidence, do not provide a sufficient basis to accept their contention that the separate memberships are legally permissible. The matter is, therefore, required to be decided on the basis of the statutory provisions and the material available on record, rather than on unsubstantiated assertions.

CONCLUSION

In view of the foregoing discussion, it is observed that Sh. Rajesh Mittal, Membership No. 242 in respect of Flat No. 40, and Smt. Monika Mittal, Membership No. 93 in respect of Flat No. 39, are both members of the same cooperative housing society. Although the respondents have claimed that the respective flats were purchased from their independent sources of income, they have failed to submit supporting documentary evidence to establish their claims. Their defence, therefore, remains unsubstantiated.

The plea of independent acquisition, therefore, remains an unsupported assertion and cannot be accepted merely on the basis of the reply filed by the respondents. The judgments relied upon by the respondents are distinguishable on facts, particularly in the absence of documentary material establishing the independent source of funds and nature of acquisition in the present case.

Accordingly, on the basis of the material available on record, I find that the respondents have failed to establish a valid justification for continuation of the membership in the Society in the facts and circumstances of the present case.

In view of the findings recorded herein, the later membership between the two memberships, i.e. Flat No. 40 (M. No. 242) and Flat No. 39 (M. No. 93), held by the spouses in the Society, is hereby ceased/terminated in accordance with law, while the earlier membership shall remain unaffected by the present order.

The Society is directed to take consequential action in its membership records in accordance with law and submit a compliance report within 15 days from the date of receipt of this order. No separate order for cessation of his membership is called for in the present proceedings.

The Society is further directed to ensure that its membership records are properly maintained and that all future admissions, transfers and grant of membership are made strictly in accordance with the provisions of the DCS Act, 2003, the DCS Rules, 2007 and the registered bye-laws of the Society.

The proceedings are accordingly disposed of.

Registrar Co-op Societies New Delhi

Krishna Kumar Singh (IAS)
Registrar Cooperative Societies

Sent To

1. The President/Secretary/Administrator, Canara CGHS Ltd., Plot No. 16, Sector 13, Rohini, New Delhi-110085.
2. Smt. Monika Mittal, Flat No. 39, Canara CGHS Ltd., Plot No. 16, Sector 13, Rohini, New Delhi-110085.
3. Sh. Rajesh Mittal, Flat No. 40, Canara CGHS Ltd., Plot No. 16, Sector 13, Rohini, New Delhi-110085
4. DRCS (IT), O/o RCS (with request to upload the order)
5. DRCS, Section -2, O/o RCS
6. Guard File