

(2002) 08 DEL CK 0172

Delhi High Court

Case No: Civil Writ Petition No. 4490 of 2000

Mahender Kumar Batra

APPELLANT

Vs

Madan Jha P.O. Delhi Coop.
Tribunal

RESPONDENT

Date of Decision: Aug. 13, 2002

Hon'ble Judges: Jiwan Dass Kapoor, J; B.A. Khan, J

Bench: Division Bench

Advocate: S.C. Munjal, for the Appellant; R.S. Chaggar, for the Respondent

Final Decision: Dismissed

Judgement

Khan, J.

Petitioner is seeking quashment of award passed by arbitrator against him dated 12.7.1999 disallowing his claim petition and that of Cooperative Tribunal dated 4.5.2002 affirming the award.

2. Petitioner paid Rs. 110/- in cash on 14.5.1989 for becoming a member of respondent society. he was also issued a share certificate on 27.5.1989 vide Seriall No. 2177. He later executed some two cheques for Rs. 1.61 lacs or so which were encased by the society. He also claims that he was allotted flat No. A-86 (HIG) and also participated in the elections held on 19.10.1997.

3. It appears that petitioner's name was omitted from the list of members for election to be held on 22.3.1998 due to cancellation of his membership vide letter dated 28.8.1997 on the ground that DDA had rejected the society's proposal for construction of additional 120 flats. Petitioner thereafter raised a dispute on this and sought arbitration for amendment of membership list and inclusion of his name in that list. His case before Registrar was that his membership was never subject to approval of DDA regarding construction of additional 120 flats. He also complained that society had allowed members junior to him to continue their membership. The society resisted his claim on the ground that his membership was subject to grant of

sanction by the DDA for construction of additional 120 flats. It, however, denied that any member junior to him was retained on the membership list. It explained that the cases of all 120 members were scrutinised and membership of the junior-most cancelled.

4. Registrar examined all aspects of the matter and found that no member junior to him except one Mohit Khanna (Serial No. 2189) was allowed to continue. He accordingly passed award dated 12.7.1999 rejecting petitioner's prayer and directing the society to consider cancellation of Mohit Khanna's membership. The Tribunal then affirmed this order and hence this petition.

5. Respondent society was granted last opportunity to file counter, but it has failed. But that does not detain us to decide this matter.

6. We find that society had a freezed strength of 600 members. Later 120 more members were enrolled in anticipation of approval of construction of 120 additional flats by the DDA but DDA rejected the society's request vide letter dated 8.8.1997 and on this, society cancelled the membership of junior-most members out of 120 members including petitioner. It is true that the society had left membership of one junior member Mohit Khanna intact, but we are told that even he was out now.

7. We accordingly see no infirmity in the award and tribunal order and dismiss this petition resultantly.