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Court : Rajasthan Jaipur

Decided On : Oct-18-2010

Judge : Mr. Justice Ajay Rastogi,J.

Appeal No. : S.B. Civil Writ Petition No.13728/2010.

Appellant : Ramdhan.

Respondent : Raj. State Cooperative Tribunal, Jaipur and ors.

Advocate for Pet/Ap. : Mr. G.P. Sharma, Adv.

Judgement :

1. Instant petition has been filed by the petitioner who as alleged to be a member of the cooperative society-respondent-2 and his application to make his wife as nominee-member of the society being finally declined by the State Cooperative Tribunal vide order impugned dt.19.8.2010 has approached this Court by filing instant petition. As alleged in the writ petition, the petitioner became member of cooperative society-respondent-2 vide letter dt.23.2.1963 and he deposited requisite fees including share capital & admission fee while becoming member of the society.

2. For the first time on 28.05.08 he filed application that because of his old age his wife may be made his nominee- member of the society and when that was declined and not accepted by the society the matter came up before the Deputy Registrar (Housing)-cum-Arbitrator who after taking into consideration the material

on record observed that since there is no application placed on record about his resignation being submitted, in absence thereof decision of general body meeting dt.16.2.1964 in regard to resolution no.5 accepting his resignation, cannot be taken note of and in such circumstances finally observed in its order dt.31.3.09 permitting the petitioner to be a member of the society and accordingly directed the society to consider his application to make his wife as nominee-member in accordance with law, which was challenged by way of appeal before the State Cooperative Tribunal by the cooperative society and the learned Tribunal in its order impugned dt.19.8.2010 however observed that the petitioner became member of the cooperative society in February,1963 and the society in its general body meeting held on 16.2.1964 attended by 16 members in its resolution no.5 accepted resignation of the petitioner and he never attended any meeting of the society thereafter and for the first time application was moved by the petitioner on 18.5.08 followed with subsequent reminders for making his wife as nominee-member of the society.

3. Taking note of resolution-5 of the society which was passed in the general body meeting held on 16.2.1964 the learned Cooperative Tribunal declined to consider application of the petitioner to make his wife as nominee member and set aside the award passed in his favour under order impugned dt.19.8.2010.

4. The main thrust of the submissions of the counsel is that there is no documentary evidence placed on record which could substantiate that he ever submitted any resignation, in absence whereof, the resolution no.5 which has been placed on record and taken to be the basis by the Tribunal in upholding his resignation is perverse finding and deserves to be set aside.

5. Counsel further submits that the Tribunal was basically of the view that after 46 years of alleged acceptance of resignation application moved in May,2008 could not be considered, however there is no such limitation prescribed under the provisions of Cooperative Society Rules, in absence whereof, the application submitted by the petitioner at belated stage could not have been rejected on the premise that it has been furnished after 46 years, more so when the petitioner was never tendered resignation and which he always disputed being accepted by the

society and even his membership and admission fee was never refunded to him, in such circumstances, the finding of the Tribunal is not legally sustainable. This Court has considered the contentions raised by counsel and with his assistance perused the material on record.

6. The resolution of general body meeting of the society dt.16.2.1964 has been placed on record as Annx.7 which was attended by 16 members of the society and extract of the resolution placed on record discloses that there were 10 different resolutions which were considered by the society in its general body meeting and resolution no.5 was in relation to the application submitted by the petitioner which was unanimously accepted and obviously after resignation of the petitioner was accepted in general body meeting way back on 16.2.1964 the petitioner does not remain a member and further there was no occasion to call upon the petitioner to attend the meeting of the society if any has taken place thereafter.

7. Indisputably, the application for the first time came on record to make his wife as nominee on 18.5.08 and the cooperative Tribunal taking note of the resolution dt.16.2.1964 which came on record did not find it appropriate to consider petitioner's application to make his wife as nominee in view of his resignation being accepted way back in February,1964 and declined to entertain his application at a belated stage. This Court has gone through the order impugned of the learned Cooperative Tribunal and does not find any apparent and manifest error or infirmity in the finding recorded which may call for interference. Consequently, the petition fails and is hereby dismissed.

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