

Transfer of share interest of deceased



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Individuals who are members of a cooperative housing society and own a house in such cooperative housing society are required to appoint/designate a nominee, in whose favour the cooperative housing society is required to dispose/transfer the share or interest such member, on his death. However, such nominees often face difficulties in getting the transfer effectuated in their favour from the cooperative housing society after the death of the member.

Recently, the Supreme Court in the matter of Indrani Wahi vs. Registrar of Cooperative Societies and others dealt with the question as to whether transfer of share or interest of a member of a Society, after his death based on nomination is binding on the cooperative housing society or whether the rights of nominee have any relevance to the rights of inheritors by way of succession or law of inheritance with regard to the transfer of flat allotted by a cooperative housing society to such deceased member.

In this case, the original member of the Society had nominated his daughter to be the person in whose favour the Society would dispose of his share or interest after his death. However, after the death of her father, the Deputy Registrar, Co-operative Societies declined to record the name of daughter because her brother in his letter addressed to the Deputy Registrar, Co-operative Societies informed him that his father has actually nominated his mother and not his sister as



■ Appointing a nominee is important to transfer the shares

per the relevant Act and Rules.

The Supreme Court held that where a member of the cooperative society nominates a person as per the requirement of and in consonance with the Act and Rules, then on death of such person the cooperative society is mandated to transfer all the share or interest of such member in the name of the nominee. The apex court opined that only in absence of a nominee, the transfer of the share or interest of the erstwhile member, would be made on the basis of a claim supported by an order of probate, a letter of administration or succession certificate (issued by a court of competent jurisdiction).

It was further held that in such a case, the right of others on account of an inheritance or succession is a subservient right. Only if a member has not exercised the right of nomination as per the applicable Rules and Act, then and then alone, the existing share or interest of the member would devolve by way of succession or inheritance.

Therefore, in this matter the Supreme Court directed the

Society to transfer the share or interest of their erstwhile member in favour of his married daughter based on the valid nomination made by him.

In conclusion, it was observed that the transfer of share or interest, based on nomination in compliance with the Act and Rules, in favour of nominee, is with reference to the concerned cooperative society and is binding on the such cooperative housing society. However, such transfer of membership in the name of the nominee is binding only as against the society and would have no relevance to the issue of title between the inheritors or successors to the property of the deceased. It is open to the other members of the family to pursue their case of succession or inheritance, in consonance with law.

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