Dwarka Court Bar Association
MEMBER

Amit Minocha
B.com (Hons.), ACMA, L.LB, L.LM
ADVOCATE
DELHI HIGH COURT
(Enrl. No. D-2429/99)
Chamber no. 629, Lawyers' Block, Dwarka Courts, Sector 10, Dwarka, New Delhi-110075

Ref. No. .....

Date: 16.01.2024

To

Mr. V.S. Malik (Administrator)

M/s Asha Deep CGHS Ltd.

C/o Office of the Asst Commissioner,

Excise Deptt., Room No. 202,

Vikas Bhawan, I.P Estate,

New Delhi-110 002

Sub: Reply cum Legal Notice

Ref your correspondence dated 10.01.2024

bearing no. DOE/ASHADEEP/RCS/2023/37-43

Sir,

I have been provided a so called 'Order No. 18' dated 10.01.2024 bearing no. DOE/ASHADEEP/RCS/2023/37-43 issued by you under your signatures to my clients namely (1) Sh K K Chopra, (2) Sh Govind Kumar , (3) Sh R K Prabhakar, (4) Sh Sayaji Alapati, (5) Sh. Bijender Singh and (6) Sh. M.S.N Prasad all resident of M/s Aashadeep CGHS Ltd. is being addressed and mentioned herein as '**society**'. That while the Managing Committee thereof has been referred to as "**MC**" in the matter below. That under instructions from and on behalf of my aforesaid client, the same is replied as under besides the demand raised subsequently in this **Reply cum Legal Notice**:

1. That it is also pertinent to mention here, which probably your malicious instigators failed to tell you, that the last MC was there only for a tenure of three (3) months and thereafter it ceased to exist due to lack of quorum. That the allegations / contentions raised by you belong to a very long period covering several past MCs. That not even a single para of your correspondence under reply mentions the period to which it

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relates and further also fails to mention as to MC of which tenure was holding office at that time. That most of the contentions does not even belong to the tenure of MC in which my clients was a part thereof.

2. At the very outset the above referred 'Order No. 18', suffers from several legal defects besides being inadmissible in the eyes of law, totally non-meritorious and without any sanctity and authority to issue the same. That while the subject of your aforesaid order stated "***Clarification on the representation / complaint...***". That your correspondence under reply is thus self-contradictory as to whether it is an 'order' or a 'clarification' as both the things are and mean poles apart. That further there is no provision to seek any such alleged clarification or to issue order, in case yourself is too interested to involve into something which is *ultra vires* and beyond your scope and power, being in possession and control of society records, you may engage yourself to find out the same from records, rather than harassing my clients, which would make you liable for compensation and damages to my clients for physical and mental torture besides damaging their reputation, credibility and image in the eyes of others.

3. That it is also pointed out on behalf of my clients that the orders , if any, are generally issued only under any proceedings or only as per powers mandated by law in writing in favour of issuing authority. That while an Administrator who himself is appointed through an order passed by office of RCS Delhi to manage day to day affairs of the society as there being no managing committee in place and to hold elections ASAP, cannot assume himself to be utmost/ supreme authority having powers over the members / residents. That the factual position is that since there is no managing committee in the society, Administrator-cum-RO is appointed to ensure early elections (maximum within 90 days) as envisaged under Section **35 (4) & (5)** DCS, Act 2003. That the administrator is nothing more than a temporary managing committee till elections are held and with a maxim term of 0 days only. That further Section **37 & 38** of the DCS Act, 2003 also states the duties of an Administrator and further he is under control of the RCS Delhi. That it seems from your so called '**Order 18**' under reply that you are not abreast of the provisions of DCS Act and Rules and were under some misimpression about your post/ yourself while accepting and acting as the 'Administrator' of the society, my clients resides at. That incase you still claim that there are certain hearings done by you, you are hereby called upon by to provide

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the entire chain of events, provisions under which you have powers to conduct as such hearing, details of hearings done and attended as well as previous orders bearing no. 1-17 (if any). That accordingly your document under reply in invalid and meritless on face of it.

4. That it is further being pointed out that being appointed as 'Administrator' for a period of only **90** days, your tenure has already ended as you were appointed u/s 35 on 25.09.2023 by the office of the RCS Delhi vide letter dated F No. 47/1290/GH/Section -1/RCS/2021 /682-686 and 90 days period stated under the law ended on ended 24th December , 2023 , whereinafter you have become '***functous officio***' and also ceased to exist as 'Administrator cum RO' as well. That it is apparent that during your tenure you miserably failed to hold elections despite there being 90 days period in your hands with all administrative powers w.r.t society in you sole and absolute domain as well. That further as per the information of my clients, till date no extension has been granted to you by the Office of the RCS Delhi.

5. That as my clients had been protesting to misuse of society funds by you by illegal expenditure and payments done by you besides not being eligible for payment. That further my clients, being the resident of society, has been requesting you to come daily as you are being paid on monthly basis as per RCS directions. That as you are charging the society you are further responsible for running the society, to ensure that the society is kept clean, water and electric supply are interrupted, lifts are operating properly, security and safety measures are regularly followed but you not only remain absent very frequently but also do not do anything and sit for a very limited hours in the society office and leave thereafter. That further you have been negligent and indifferent regarding repeated pointing out by my clients and other society members with respect to wide open roof tops of society without any locks, which is dangerous for the life of all including resident, labour or other staff, visitors etc. That any unfortunate incidence due to such negligence shall be purely to your account.

6. That be it further noted that all the expenses incurred by you after 24th December 2023, till date become illegal and unlawful and make you liable under **Section 420 and 406** of **Indian Penal Code** for illegally spending society funds which is a public

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money given on good faith and trust in the name of the society be it under any head count. That be it noted that not only you are liable for criminal prosecution but shall remain liable to return back the entire amount to society, for which my clients would not hesitate to file criminal case against you on this count as well besides asking other authorities as well to take action against you.

7. That it has further been pointed out that besides illegally spending society funds, you have also been illegally claiming a conveyance of Rs 2,000 /- per visit from the society funds. That it is pertinent to mention that this is another offence of fraud, cheating criminal misappropriation of funds being done by you with society because

(a) As per the letter of your engagement issued by RCS Delhi, your address is at Civil Lines, Delhi , while the society is at Dwarka and as informed, you are claiming an withdrawing an amount of Rs 2,000/- as your conveyance charges which is totally exaggerated an false on the face of it.

(b) That as per the various taxi apps like OLA Cab, the fare from Civil Lines to Dwarka is around 380-460 one way i.e. Rs 760/- to 920/- two-way. That however, which again shows that you are illegally overdrawing money from society records. That you are further not giving any details or bills etc w.r.t to your claim of conveyance to show you had spent the same bonafide. That be it noted that not only you are liable for criminal prosecution but shall remain liable to return back the entire amount to society, for which my clients would not hesitate to file criminal case against you on this count as well besides asking other authorities as well to take action against you.

8. That it is further pointed out that while the Office of the RCS Delhi had fixed your remuneration @ **Rs 10,000/-** per month, while despite withdrawing the aforesaid amount, you did not attend the society office for complete month and rarely and occasionally visited the society office for a very limited days and as per your whims and choices. That thus the amount of Rs 10,000/- which was withdrawn b

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from society funds was for working for visiting and sitting in the society 26 days a month(excluding Sunday) for 8 hrs (as per standard service norms), however neither you came for 26 days nor you devoted 8 hrs on your limited visit days in the society , which makes you further liable for refund of *prorata/* proportionate amount to the society and the same is hereby demanded back as well as it has been withdrawn from the hard earned money contributed by members/ residents of society including my clients.

9. That further your aforesaid 'Order No. -18' also seems to be issued in a haste and at the instance of some grudged member(s) without going into facts and merits and without understanding, evaluating, assessing and knowing the past records of the society, which already remain in society office and under your control / possession being the Administrator of the society . That as per my clients, the envelope in which the present 'Order No. -18' is issued, the address of the addressee/ my clients thereof is in the handwriting of Mr DPS Rajesh, the consistent trouble maker for the society and my clients and against whom the demand raised by the society was found to be correct and valid and yet he is a defaulter to the same.

10. That it is pertinent to point out to you, which you must should have seen and known or ought to know before issuing the alleged 'Order No. -18', that an inquiry u/s 61 DCS Act, 2003 was carried out at the complaint of Mr. D.PS. Rajesh. levying all sorts of meritless allegations, on detailed inquiry carried out non infirmity in the working of the then MC was found, rather the said report went against Mr DPS Rajesh himself. That a person of your calibre and post, should have done his homework/ work in detail and should have gone through records before issuing the alleged 'Order No. -18' in a haste, without any merits and powers all well. That however, my clients is shocked to see that you are not even abreast of the past developments and are simply doing acts which are not only beyond your scope and power but also without any basis and relevance.

11. That further you have also not attached the alleged complaint from Mr D.P.S. Rajesh and Ms Kamla Bhardwaj, which in itself shows that there is wilful concealment of the same from my clients as not only they are beyond your scope

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and powers but also because you are well aware that the same are meritless and inadmissible on the face of it.

12. That para 1 of your aforementioned correspondence alleges exorbitant payment of above Rs 51 Lac in three months to the contractor. That it is pertinent to mention that you have acted in a very immature, irresponsible and biased manner in para 1 of your correspondence to my clients. That contents of your said para are nothing more than a baseless, meritless and lawless allegation without not even an iota of truth and merits in it. That your said para 1 fails to mention the details of alleged payment, payee name etc. That it seems that before simply stating any random amount, you have again not worked properly on records also not gone through the terms and conditions, work progressed or finished records. That it further seems to my clients that you have also not applied your wisdom properly and have in a haste issued the correspondence under reply that too illegally and beyond any powers. That it is also pertinent to mention that that you have even failed to quote which three months you are relying upon. That further whether the payment is regular or irregular shall be duly audited by the statutory auditors and shall be placed before the General Body as well, who may approve/ disapprove or even clarify the same during General Body Meeting. That you cannot assume yourself to be in role of statutory auditor as well as General Body of the society and neither should you act in anxiety and ask something which is beyond your scope and powers and especially when you have no *locus standii* or status as well, your tenure being already expired. That it has also come to knowledge of my clients that there has come a demand notice of more than 1.5 crore from the contractor through you, which you have not disclosed till date and have concealed the contents of the same till date from the members of the society. That incase you / society have not received any such notice, you are hereby asked to confirm the same in writing to the undersigned and my clients, failing which, any adverse cost, loss or expense caused to or incurred by society by your such concealment, the same shall be to your head and account and shall be recovered from you.

13. That para 2 of your aforementioned correspondence alleging increase of payment of 8-10% to contractor is also without any basis and merits. That it is pertinent to mention that you have further acted in a very immature, irresponsible and biased

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manner in para 2 under reply of your correspondence to my clients. That contents of your said para are nothing more than a baseless, meritless and lawless allegation without not even an iota of truth and merits in it. That your said para 2 fails to mention the details of alleged increase, it's application date, it's tenure period etc. That it seems that before simply stating any random amount, you have again not worked properly on records and not gone through the terms and conditions, work progressed or work finished data as well. That it further seems to my clients that you have also not applied your wisdom properly and have in a haste issued the correspondence under reply that too illegally and beyond any powers. That further whether the increase was regular or irregular shall be duly audited by the statutory auditors and shall be placed before the General Body as well, who may approve/ disapprove or even clarify the same during General Body Meeting. That you cannot assume yourself to be in role of statutory auditor as well as General Body of the society and neither should you act in anxiety and ask something which is beyond your scope and powers and especially when you have no *locus standii* or status as well, your tenure being already expired.

14. That para 3 of your aforementioned correspondence alleging payment of Rs 16,82,000/- to contractor is also without any basis and merits. That it is pertinent to mention that you once again reflected from he contents of para 3 of your correspondence that you have acted in a very immature, irresponsible and biased manner while stating the para 3 under reply of your correspondence to my clients. That contents of your said para are nothing more than a baseless, meritless and lawless allegation without not even an iota of truth and merits in it. That your said para 3 fails to mention the details of alleged payment and alleged work and alleged loss etc. That you have also miserably failed to state what is the amount of alleged loss and how it has been computed and in which management's tenure the said loss was allegedly caused to the society. That it is pertinent to mention that my clients is equally contributing for the project like all other members and no one would like to cause a loss to him/her self. That it seems that before simply stating any random amount, you have again not worked properly on records also not gone through the terms and conditions, work progressed or finished work records. That it further seems to my clients that you have also not applied your wisdom properly and have in a haste issued the correspondence under reply that

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too illegally and beyond any powers. That further whether there was any loss or not shall be duly audited by the statutory auditors and shall be placed before the General Body as well, who may approve/ disapprove or even clarify the same during General Body Meeting. That you cannot assume yourself to be in role of statutory auditor as well as General Body of the society and neither should you act in anxiety and ask something which is beyond your scope and powers and especially when you have no *locus standii* or status as well, your tenure being already expired.

15. That para 4 of your aforementioned correspondence asking for basis for raising demand of Rs 63,000/- is none of your business and totally outside domain of your limited assigned role, the tenure of which is also over. That while you were appointed for 3 months on 25.09.2023 to run the society on day today basis until fresh elections as well as to carry out elections of society ASAP. That you miserably failed to do either of your assigned work and as a result you have become a financial liability to the society for your own fault and failure to hold elections as per directions and time frame given by the RCS Delhi. That your para under reply states about allege demand of RS 63,000/- on 13.08.2023, i.e. more than a month even before you were appointed by RCS, Delhi and more funny and surprising is that the same is asked on 10.01.2024 when your tenure has already ended on 24.12.2023. That thus it seems that you have more of a personal and vested interest in the operations of the society rather than any professional worthy duty. That the reason for the same is known to you alone. That further the query can only be raised by the member of the society in the General Body while you are nil authority to seek and ask the same. That yet if you have craze and anxiety to know the same, you may go through the minutes and other society records to appraise yourself.

16. That para 5 of your correspondence under reply is also meritless, baseless, illogical and contrary to the provisions of law. That it is apparent that you are lacking the knowledge of DCS Act / Rules as well as on subject of 'construction'. That the alleged section 92 DCS Act, quoted by you is not valid and applicable in the present case. That it is pointed out to you that Section 92 speaks of the 'Execution of Housing Project' , while in the present case no housing project is

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going on and only Extension of the 'Floor Area Ratio' of existing houses of interested members is taking place while the possessions after completion of housing project have already been done decades ago. That further That even Section 92, quoted by you states as ***"On allotment of land to, and possession thereof"***, which means allotment of **land** should have been done but no possession should have been carried out i.e. society should be under construction. That while in the present case not only the society has already been constructed but even the possessions have been given decades back. That on the contrary in the present case, after a scheme was floated by DDA, those who are willing can avail extra covered area in their individual flats area, which is no way it is called as construction rather it in only an '**FAR Extension**'. That my clientss hope that you would be able to differentiate between the words 'Construction Project' and 'Extension Project' applying your sense of judgment. That thus there is not even remote applicability of section 92 in this case, being falsely presumed by you.

17. That para 6 of your correspondence under reply is also meritless, baseless, illogical and contrary to the provisions of law. That neither you have stated what is the scrap, what was it's value and neither you have any personal knowledge as to whether there was any scrap or not. That further more as already stated above, the same is beyond the scope of your profile and portfolio as 'Administrator'. That it seems that you are working more on 'hear say' basis rather than any logics and reality, which is not expected from the person who held the post of an 'Administrator' to any society. That this clearly shows lack of knowledge and procedures under DCS Act and DCS Rules on your part. That my clientss further feel it would be better that you engage a professional at your own cost and resources to understand the subject matter first before asking/ seeking such vague and imaginative information from my clients.
18. That para 7 of your correspondence under reply is also meritless, baseless, illogical and contrary to the provisions of law. That the point raise by you further reflects lack of knowledge, procedures and true information with you. That you have falsely again quoted section 92 and that too without going through the FAR extension records and development, which is going on since more than 2 years now, while you had been for a tenure from 25.9.2023-24.12.2023. That it is ironic to know that you are on everything else except holding elections of society, the

purpose for which you were sent by the RCS Office. That it seems that the FAR Extension work and funds lying with the society are luring you towards itself, therefore you are trying to place your hands on additional works of the society despite them being beyond your scope and engagement. That be it noted, as already stated above you shall remain financially and criminally liable for misuse / overuse and wrong use of funds of the society, which shall surely be recovered from you after elections. That however it is very important to point out here that nothing in law stops my clients in their individual capacity to file a criminal case against you with the police department / court w.r.t. illegal drawing of funds from society account under your signatures and bills.

19. That para 8 of your correspondence under reply is also meritless, baseless, illogical and contrary to the provisions of law. That the point raise by you further reflects lack of knowledge, procedures and true information with you. That from the contents of para under reply wherein you have talked about minutes of the GBM held on 20.06.2023 and 24.09.2023, it seems that you are playing as puppet at the hands of someone else or working at someone else's instructions. That as you quoted Section 92 in your correspondence under reply, it is presumed for the time being that you have some knowledge of DCS Act and Rules, be it correct or incorrect. That you are hereby appraised that neither on 20.06.2023 nor on 24.09.2023 you were appointed as the 'Administrator' of the society nor you were called in the GBMs and hence you have not witnessed what had happened in GBM. That accordingly, the claim of incorrect minutes clearly shows that either someone else is controlling you or you barely had any merits to be the 'Administrator' of the society as you miserably failed to understand DCS Act and rules. That you are also appraised here, that incase any member has any dispute regarding the GBM minutes, the same are covered to be challenged under Section **70 DCS Act** before the RCS Delhi within 30 days of such GBM. That accordingly, it is clear that neither you have knowledge, nor you have tried to go through law to find our correct position and further you have miserably failed to apply your analytic mind or to go through the society records before claiming such incorrect facts and before acting contrary to the provisions of the DCS Act and Rules. That in contravention to DCS Act and DCS Rules you are acting more in an arbitrary, illegal, malafide and wrongful manner thus abusing the value of chair

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of Administrator which was provided to you by the Office of RCS Delhi. That my clients feels that an 'Administrator or Ex-Administrator' should nor fall to such low levels and should not speak vague, meritless and baseless contrary to the law and records and rather should remain a silent observer in the honour and respect of his/ her own post/ chair.

20. That para 9 of your correspondence under reply also reflects that he contents are meritless, baseless, illogical and contrary to the provisions of law. That the point raises by you again reflects lack of knowledge, procedures and true information with you. That from the contents of para under reply wherein you have talked about defaulter and recovery quoting section 86, 89(2) DCS Act read with Rule 102(5) DCS Rules. That any sensible person would first go through the records, verify the facts and then act in a manner which would show he / she is a rationale and logical person. That in this case, if your good self had gone through the records and applied your mind, you would have easily found that as per the above quoted inspection report available in the society office, the habitual nuisance maker / habitual false complainer, Mr D.P.S Rajesh himself is a defaulter and had been asked to clear his dues. That but you intentionally overlooked the same and tried to target my innocent and bonafide clients. That further rather than making hue and cry to Ex-MC Members, you could have better written to alleged defaulters asking them to clear dues or face action. That you are no body to teach my clients how to run the MC or society. That rather it is you who lacks the complete thorough knowledge of DCS Act and DCS Rules and have been beating about the bush with no relevancy, merits and law thereto. That by doing so you have yourself degraded your position in the eyes of my clients.

21. That para 10 of your correspondence under reply also reflects that he contents are meritless, baseless, illogical and contrary to the provisions of law. That the false allegations relating to membership of my clients also has no merits as everything has been done in accordance with law. That it seems you are also very poor in further knowledge w.r.t to membership of society and the procedure to be adopted thereto. That no membership was given without giving the demanded forms and forms if any are missing now from the society records, the same is attributable to your name and count, as you had been incharge of records of

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society w.e.f 25.09.2023. That you even miserably failed to mention as to when did you found the records to be missing and did you only go through the file of my clients or any other member's file as well. That your silence on these points shows your biasness as well as intentional & wilful discrimination and harassment towards my clients, for which you are liable to compensate to my clients.

22. That para 11 of your correspondence under reply also reflects that the contents are meritless, baseless, illogical and contrary to the provisions of law and are strongly protested to being abusive, derogatory and defamatory to the image and reputation of my clients. That you are hereby called upon to produce and explain the following details qua the allegation of taking Rs 10 lac in cash by my clients :

(a) Source of information,

(b) Breakup of amount (person wise)

(c) Alleged complaints received by you together with Membership no. PAN no and Aadhar no of alleged payers / complainants,

(d) Share details of mode, source and date of payment (person wise)

That you are hereby categorically challenged by my clients to furnish the basis of derogatory allegations levied against my clients in full public failing which my clients shall be constrained to file a **'criminal defamation'** case against you , as misusing the position of 'Administrator' you have not only levied, dirty, abusive, false and derogatory allegations against my clients with *mens rea* and wilfully but have also circulated the said allegation filled letter / present correspondence on the notice board.

That you have wilfully and knowingly abused, tarred, damaged and degraded the high image and reputation of my clients, that too in writing before all. That no amount of money can bring back the loss of image, credibility and reputation of my clients, however a sum of **Rs 10,00,000/- (Rupee Ten Lac)** can bring some condolence to the pain and sufferings of my clients arising out of said wilful illegal act of defamation.

That be it further taken note of that irrespective of whether you are or you were or the 'Administrator' of the society, the law does not exempt you from the criminal and financial liability towards my clients and my clients shall ensure that you are not only put behind bars but also suitably compensate my clients accordingly.

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23. That para 22 of your correspondence under reply also reflects that the contents thereto are also meritless, baseless, illogical and contrary to the provisions of law and are strongly protested. That the allegations are also bald and without any basis. That no where section 118(6) DCS Act is attracted here and you have again exposed yourself to be not only poorest in the knowledge of DCS Act and Rules but also not aware of the previous developments of the society. That my clientss are highly disappointed with office of RCS Delhi seeing the pathetic knowledge and quality of the Administrator provided to their society.

24. That para 23 of your correspondence under reply also reflects that the contents thereto are also meritless, baseless, illogical and contrary to the provisions of law and are strongly protested. That the allegations in said para are also bald and without any basis and seems to have been levied at the instance of someone else. That seeing your entire correspondence under reply, my clients feels pity about your knowledge and working style and are highly disappointed by the quality of the services redarned by you and the manner you had been exercising in the capacity of 'Administrator' to their society.

25. That the final para of your is also of no relevance, beyond your powers and preview when you were 'Administrator' and rather it is you who have made yourself liable for criminal prosecution and payment of damages to the tune of Rs 10 lac to my clients for all the wilful and intentional defamation, degrading, devaluing, harming their credibility before the members, buyers, residents as well as staff of the society without verifying the true facts and in an immature and irresponsible manner.

That on the contrary to your invalid, malafide and ill intended, unlawful 'Order 018'/ correspondence, I **Amit Minocha Advocate**, for and on behalf of my above clients do hereby demand from you as under:

(1) To immediately and unconcitionally withdraw the present correspondence under reply forwarded to my clients,

(2) To immediately on receipt paste and share the aforesaid reply of my clients on the society notice board / society members,

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failing which my clients shall be at full liberty to do the same at his own end,

(3) To refund the excess amount charged by you as remuneration, for such number of days which you did not come to society at all,

(4) To immediately submit back the amount of **Rs 1,200/-** per visit for the no of visits paid by you to the society, being access and illegally charged conveyance by you,

(5) To produce all the documents, records etc on the basis of which 'Order 8' /correspondence has been issued to my clients,

(6) To pay a sum of **Rs 10,00,000/- (Rupee Ten Lac Only) each** as compensation / condolence amount to my client for defaming him.

Since you pasted your correspondence under reply on the notice board for information of all applying principles of equity and neutrality, you are hereby called upon to **immediately share** this reply on the notice board of the society for information of all, else my client shall be at full liberty to put their reply on notice board of the society as well as share the same with the society members/residents etc.

That in case of your failure to do the needful or pay the demanded amounts within **(7) seven days** as asked above. I shall be proceeding to initiate legal proceedings against you, both Civil and Criminal, for which I have to confirm instructions from my clients.

Needless to say, the consequences of the same shall be solely at your risk and cost.

No other notice to follow do take note. Copy retained in my office for further legal action.

16/11/24

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ADVOCATE DELHI HIGH COURT
B.com (Hons.) ACMA. L.LB, L.LM ,
Cyber Law Certification (ILI, New Delhi)

Cc: ARCS Delhi.