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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.R.P. 27/2015, C.M. Nos.4068/2015, 4069/2015, 10034/2015,
20801/2015

VIJAY MEHTA

..... Petitioner

Through Mr. Peeyoosh Kalra and Mr. Mahua
Kalra, Advs.

versus

ASSOCIATION OF APARTMENT OWNERS OF NEW DELHI
HOUSE (REGD)

..... Respondent

Through Ms. Sunita Bhardwaj, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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25.02.2016

The petitioner before this Court is Vijay Mehta. He is aggrieved by a part of the finding returned in the impugned order dated 19.08.2014. MCA No. 30/2013, MCA No.35/2013 and RCA No.53/2013 were the subject matter of the impugned order. The petitioner is aggrieved only by that part of the order (passed in MCA No. 30/2013) wherein the Court was of the view that although the New Delhi House Flat Owners' Association (in short 'NDHFOA') is a society which is in existence but there appears to be an apparent and urgency for the election and change of management; status quo of non-declaration of the result of the elections proposed qua the Association were thus ordered to be maintained.

Record shows that a suit (Civil Suit No.71/2013) had been filed by Association of Apartment Owners of New Delhi House (in short

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to
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**Court Master
High Court of Delhi
New Delhi**

'AAONDHA'). This pertains to the flats owner of New Delhi House Building Located at 27, Barakhamba Road, New Delhi. The following reliefs were claimed:-

1. *Pass a decree of permanent and mandatory injunction in favour of the plaintiff and against the defendants thereby, restraining the defendants and their agents, servants, supporters or any other person or anyone on behalf of the defendants from carrying out any activity issuing any notice of election, letter, circulars, bills or any other correspondence or communication on behalf of the erstwhile dissolved association i.e. New Delhi House Flat Owners Association which is non-existent and non-est in the eyes of law and which ceased to exit.*
2. *Pass a decree of permanent and mandatory injunction in favour of plaintiff and against the defendants restraining the defendants from holding election, from issuing and circulating any paper, pamphlet, notice in the name of non-existing society i.e. New Delhi House Flat Owners Association.*
3. *Pass a decree of permanent and mandatory injunction in favour of plaintiff and against the defendant restraining the defendants from interfering in any manner in the functioning of the plaintiff association which is the only association registered in accordance with the Delhi Apartment Ownership Act, 1986 and is functioning in New Delhi House for the welfare of the apartment owners.*
4. *Pass a decree of permanent and mandatory injunction in favour of plaintiff and against the defendants restraining the defendants from in any manner forming any society in the name of New Delhi House Flat Owners Association or in any other name with regard to the building called New Delhi House so long as the plaintiff society exists.*
5. *Pass a decree of permanent and mandatory injunction in favour of plaintiff and against the defendant restraining the defendants from obstructing exciting or creating any third front so as to interfere with the functioning of the plaintiff association.*
6. *Any other order which the Hon'ble Court may deem fit and proper in the*

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facts and circumstances of the present case be also passed in favour of the plaintiff."

Certain orders were passed by the Trial Court. The matter went before the Appellate Court. The Appellate Court by the impugned order had held that the Society i.e. 'NDHFOA' is a Society in existence; it is not non-existent. This part of the order is not the subject matter of challenge by the petitioner as it was always his case that 'NDHFOA' could not have been held to be non-existent. There is no counter appeal. The order of the Appellate Court thus holding that 'NDHFOA' is a Society which exists as on date is an admitted position.

Learned counsel for the petitioner contends that the impugned order had been passed in August, 2014. Matter is lying pending and subjudice before the Trial Court; there has been a stay by this Court and as such no proceeding can be carried out before the Trial Court. There were 190 members in the Society and there being no effective management of the Society, their grievances cannot be addressed. Attention has been drawn to certain letters which have been placed before this Court wherein two of the incumbent flat owners, (resident of Flat No. 402 and Flat No. 114) had written to the concerned SHO making a complaint regarding stoppage of the essential services i.e. water supply in their premises; submission of the learned counsel for the petitioner being that in the absence of an effective elected body of the Society, these day to day affairs cannot be carried out and the members of the Society are aggrieved.

These submissions have been refuted. Learned counsel for the

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respondent points out that the impugned order calls for no interference; she however has no objection if a time bound schedule is laid down by the Trial Court to complete the trial but the oral prayer now made before this Court by the petitioner (which is to the effect that an Observer be appointed to conduct the elections of the Society) may not be permitted as if this is permitted, the entire suit pending before the Trial Court would become infructuous. Written submissions have also been filed by the learned counsel for the respondent.

Parties have been heard. The averments contained in the plaint in the suit (71/2013) pending before the Trial Court have been perused. This appears to be a war between two associations i.e. the 'NDHFOA' and the 'AAONDHA'. The impugned order has held that 'NDHFOA' is a Society which is in existence. The averments contained in the suit pending before the Trial Court have also been perused. They are largely premised on the averment that 'NDHFOA' has been dissolved and such a dissolved Society cannot hold election and accordingly they be restrained from issuing letters/circulations i.e. for the purpose of an election.

Since this order holding 'NDHFOA' as non-existent has been set aside and the Appellate Court has confirmed that 'NDHFOA' is body which is in existence and is alive, the premise on which the suit of the plaintiff (pending before the Trial Court) is based is largely demolished. The submission of the learned counsel for the petitioner that the members of the Society (Association of Apartment Owners of New Delhi House, Barakhamba Road, New Delhi) are aggrieved and their

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grievances on several scores cannot be addressed in the absence of an elected body is also an admitted position. This cannot be disputed and has in fact not been disputed by the learned counsel for the respondent. That being the position, this Court has no hesitation in holding that a transparent election be permitted of this flat owners Association i.e. New Delhi Building Housing Association located at 27, Barakhamba Road, New Delhi which will be conducted under the aegis of an Observer i.e. a retired High Court Judge namely Justice P.K. Bhasin (Mobile No. 9871300032). The process of election will be initiated by the learned Observer within a period of one week from the receipt of this order and he shall ensure that the elections of the Executive Body of the Association are carried out transparently and freely. The fee of the learned Observer is fixed at Rs.1.5 lac. It shall be paid by the petitioner. The Observer shall submit its report before the Trial Court.

The impugned order is modified to the said effect. Petition disposed of.

Order dasti under the signatures of the Court Master.

sd/r
INDERMEET KAUR, J

FEBRUARY 25, 2016

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Praveen Singh

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New Delhi

NEW DELHI HOUSE FLATS OWNERS ASSOCIATION

(Regn No. S-40272/2001)

NEW DELHI HOUSE, 27 BARAKHAMBHA ROAD, NEW DELHI - 110 001
Corrs. Address: 203, New Delhi House, Barakhamba Road, New Delhi - 110 001
E-mail: ndh.flatownersassociation2013@gmail.com; www.ndhfoa.com

30th April, 2018

PRESIDENT

Sh. K.J. Sanger
Flat No. 203
M.9810007731

VICE PRESIDENT

Sh. S.C. Khaneja
Flat No. 303

GEN. SECRETARY

Sh. Ashok Kr. Mehta
Flat No. 201

TREASURER

Sh. Vikram Mittal
Flat No. GF-6

MEMBERS:

Sh. Chaman Mahajan
Flat No. 414

Sh. S.L. Gupta
Flat No. 510

Geeta Mehta
Flat No. 305

✓ All Flat Owners/Occupiers
New Delhi House
27 Barakhamba Road
New Delhi

Sub: Election Update for New Delhi House

Dear All,

It gives us an immense pleasure to inform you that after struggling for six long years against the fabricated, false and frivolous court cases & Police complaints filed by Smt. Sunita Bhardwaj, and her cronies, the truth has prevailed and a new Managing Committee of New Delhi House flat Owners Association (Regd.) has been declared elected on 29.4.18 as per the directions dated 25.2.16 in CRP No. 27/2015 passed by Hon'ble Delhi High Court and elections held under the aegis of Hon'ble Justice (Retd.) Sh. P.K. Bhasin.

Following are the office bearers and members of the New Managing Committee of NDHFOA (Regd.) :-

1. President : Sh. K.J. Sanger
2. Vice President : Sh. S.C. Khaneja
3. General Secretary : Sh. Ashok Kumar Mehta
4. Treasurer : Sh. Vikram Mittal
5. Member : Sh. Chaman Mahajan
6. Member : Sh. S.L. Gupta
7. Member : Smt. Geeta Mehta


Copy of the result dated 29.4.18 declared by the Election Observer Justice (Retd.) Sh. P.K. Bhasin is enclosed.

We assure you that the new Managing Committee shall do all possible with the co-operation and support of flat owners/occupiers for the best upkeep of the New Delhi House building. Major issues shall be identified and prioritized based on the feed back received and we shall address them all with the help of expert professionals to make NDH as one of the best maintained building in this area.

We thank all the members for their support and good wishes.

Regards


K J Sanger
President


Ashok Kumar Mehta
General Secretary

P.T.O.


ELECTION FOR THE CONSTITUTION OF NEW MANAGING COMMITTEE
OF "NEW DELHI HOUSE FLAT OWNERS ASSOCIATION(REGD.)"

AFTER SHRI PRADEEP GANDHI WITHDREW HIS NOMINATION ON
28.04.2018 THE FOLLOWING CANDIDATES ARE LEFT IN THE FRAY FOR
DIFFERENT POSTS IN THE MANAGING COMMITTEE

<u>NAME OF MEMBER/CANDIDATE</u>	<u>POST</u>
SHRI K.J.SANGER	PRESIDENT
SHRI S.C.KHANEJA	VICE PRESIDENT
SHRI ASHOK KUMAR MEHTA	GENERAL SECRETARY
SHRI VIKRAM MITTAL	TREASURER
SMT. GEETA MEHTA	MEMBER EXECUTIVE
SHRI S.L.GUPTA	MEMBER EXECUTIVE
SHRI CHAMAN MAHAJAN	MEMBER EXECUTIVE

SINCE THE NUMBER OF CANDIDATES FOR EACH POST IS ONLY ONE
THE ABOVENAMED CANDIDATES ARE DEEMED TO HAVE BEEN
ELECTED UNOPPOSED FOR THE POST MENTIONED AGAINST THEIR
NAMES. THERE WILL NOW BE NO FORMAL ELECTION ON 05.05.2018
AS ANNOUNCED EARLIER.

29.04.2018


JUSTICE (RETD.) P.K. BRAHM
ELECTION OBSERVER